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Internal Revenue Manual

Internal Revenue Service Acquisition Procedure (IRSAP)

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PART 1001

Subpart 1001.3--Agency Acquisition Regulations

1001.301--Policy.

- (a) The Internal Revenue Service Acquisition Procedure (IRSAP) is issued to implement and supplement the Federal Acquisition Regulation (FAR) and the Department of the Treasury Acquisition Regulation (DTAR) entirely for internal IRS guidance. The authority for issuance of these regulations is found in DTAR 1001.304.
- (s-90) The IRSAP establishes uniform IRS policies and procedures for the procurement of supplies and services. Regulations established by the FAR and DTAR will not be repeated. The instruction of the FAR and DTAR takes precedence over any instruction in the IRSAP.
- (s-91) In accordance with the guidelines established in the National Performance Review, guiding principles for the Federal Acquisition System, and Executive Order 12861, the IRSAP contains policy and organizational guidance. It also contains procurement-related information with application to nonprocurement organizations throughout the IRS. Specific procedures are issued internally through Procurement Policy and Procedures Memoranda and other guidance documents.

1001.303--Publication and codification.

- (a) When the FAR and DTAR require no additional implementation, the IRSAP will not contain corresponding citations.
- (s-90) This regulation uses the same nomenclature and numbering system (with a 10-prefix) as used in the FAR. The numbering system differentiates between implementing and supplementing coverage. IRS implementing coverage uses the same numbers as the FAR/DTAR. IRS numbering for supplemental coverage is the same as its FAR or DTAR counterpart, with the addition of a number of 90 and up (e.g., s-90, s-91). Parts, subparts, sections, and subsections are supplemented by the addition of a number 90 and up. Lower divisions are supplemented by the addition of a number of s-90 and up. If the supplementing text exceeds one paragraph, the subdivisions are numbered using the structure prescribed at FAR 1.105-2(b). For example, IRSAP text supplementing FAR 13.101 would be numbered 1013.101-90. Its subdivisions would be numbered 1013.101-90(a)(b)(c).
- (s-91) For purposes of the IRSAP, requirements for Senior Procurement Executive (SPE) approval derived from either FAR or DTAR will always be routed through the Office of Procurement Policy to the Director, Procurement, unless expressly directed otherwise. This requirement will not necessarily be repeated throughout the IRSAP.

1001.304--Agency Control and Compliance Procedures.

- (a) The Director, Procurement is responsible for issuance of bureau regulations implementing and supplementing the FAR and DTAR. Any supplement to or implementation of the FAR, DTAR, or IRSAP issued at any level lower than the Commissioner requires the approval of the Director, Office of Procurement, Department of the Treasury (MMK), prior to issuance. Such policies or procedures shall be forwarded to MMK through the Office of Procurement Policy and the Director, Procurement. Recommendations to revise the IRSAP or to add new coverage shall be submitted to the Office of Procurement Policy for consideration.
- (s-90) Each IRS procurement office must maintain the following documents in hard copy or electronic media:

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- (1) The current edition of the Federal Acquisition Regulation, Title 48, Chapter 1, including updates issued in Federal Acquisition Circulars.
 - (2) Department of the Treasury Acquisition Regulation, TD 70-06.
 - (3) Department of the Treasury Procurement Instruction Memoranda (PIMs).
 - (4) Internal Revenue Service Acquisition Procedure (IRSAP)
 - (5) Policy and Procedures Memoranda (P&Ps).
 - (6) Information Requests and Transmittals (IRTs).
 - (7) General Services Administration (GSA) Supply Catalogs and Catalog Guide, Federal Supply Service (FSS) Schedules and Schedule Program Guide, Federal Prison Industries (UNICOR) Schedule of Products, and the procurement list for blind-made products.
 - (8) Copies of contracts that require delivery orders to be issued and/or administered by field procurement personnel.
 - (9) Commercial and FSS vendor catalogs, brochures, and directories of local minority business sources.
 - (10) List of Parties Excluded from Federal Procurement or Nonprocurement Programs, maintained by GSA.
 - (11) The current Federal Information Processing Standards Publication (FIPS PUB) 55, Guideline Codes for Named Populated Places and Related Entities of the States of the United States. This publication is available from the Department of Commerce, [National Technical Information Service](#), 5285 Port Royal Road, Springfield, VA 22161.
 - (12) Procurement procedures and guidelines issued by the Office of Management and Budget (OMB) in directives or circulars, which are distributed by Headquarters Procurement.
- (s-91) IRS Procurement Policy and Procedures Memoranda (P&Ps) are incorporated by reference in the IRSAP. The P&Ps provide more detailed, and often more current, information on subjects in the FAR and IRSAP. Non-procurement personnel may obtain copies of specific P&Ps from their local procurement office or on the Procurement Intranet.

Subpart 1001.4--Deviations from FAR and DTAR

1001.403--Individual deviations.

- (b) Requests for deviation from FAR and DTAR provisions that affect only one contracting action will be submitted to the Director, Procurement through the Office of Procurement Policy for review and submission to MMK for Departmental approval.
- (s-90) Requests for deviation from IRSAP provisions will be submitted to the Office of Procurement Policy.

1001.404--Class deviations.

- (b) Requests for class deviations from FAR and DTAR provisions will be forwarded to the Director, Procurement through the Office of Procurement Policy for review and submission to MMK for Departmental approval. The Office of Procurement Policy will coordinate class action requests with Headquarters and field offices.

Subpart 1001.6--Career Development, Contracting Authority, and Responsibilities

1001.601--General.

- (a) The IRS Director, Procurement is the Head of the Contracting Activity (HCA). Throughout the FAR and DTAR, terms other than HCA are used when referring to

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approval or submission requirements. The Director, Procurement is also the Bureau Head Procurement Authority, Bureau Head, Head of Bureau, and Bureau Chief Procurement Officer.

1001.602--Contracting officers.

1001.602-3--Ratification of unauthorized commitments.

- (b) P&P 1.6(A), Ratification Procedures, provides detailed procedures for the ratification of unauthorized commitments.
 - (1) Ratifications equal to or less than 10% of the simplified acquisition threshold shall be approved by:
 - Deputy Director, Procurement in Headquarters,
 - Area Chief Procurement Officer in the field; or
 - MCC Procurement Chief.
 - (2) Ratifications greater than 10% of the simplified acquisition threshold shall be approved by the Deputy Director, Procurement.
 - (3) Ratifications greater than the simplified acquisition threshold shall be approved by the SPE.
- (c) Ratifications requiring the approval of the Deputy Director, Procurement or the SPE shall be submitted with the required case file to the Policy and Procedures Branch, Office of Procurement Policy. The case file shall include the approval of the following officials, as applicable:
 - (1) Headquarters:
 - Division Director, or equivalent, of the office responsible for the unauthorized commitment
 - Senior Executive or equivalent
 - (2) Field:
 - Division Director, or equivalent, or Senior Counsel of the office responsible for the unauthorized commitment
 - CIO (for computing centers)
 - ACPO or MCC Procurement Chief
 - Director, Office of Field Procurement Operations

1001.670--Selection, appointment, and termination of appointment of contracting officer's technical representatives (COTRs).

1001.670-2--Appointment.

Requesting activities shall nominate to the contracting officer an individual to act as a representative in the administration and monitoring of a contract. Selection is based on the technical, professional, and administrative qualifications of the individual, as described in the COTR Handbook, TD P 76-01.D.

(s-90) Contracting officers shall consider alternatives to COTRs, such as receiving officials or points of contact, depending on the type of contract and deliverables.

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PART 1002 DEFINITION OF WORDS AND TERMS Subpart 1002.1--Definitions

1002.101--Definitions.

- (a) Head of Contracting Activity (HCA). The head of the contracting activity, in the context of the FAR and DTAR, is the Director, Procurement.
- (b) Senior Procurement Executive (SPE). The senior procurement executive is the Director, Office of Procurement (MMK). The IRSAP may refer to the individual as the SPE or to the office as MMK.

Subpart 1002.70--Abbreviations

1002.7000 Abbreviations.

ACPO	Area Chief Procurement Officer
AS(M)	Assistant Secretary (Management)
BCPO	Bureau Chief Procurement Officer
CIO	Chief Information Officer
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
D&F	Determination and Findings
GLS	General Legal Services
GSBCA	General Services Board of Contract Appeals
HCA	Head of Contracting Activity
IRSAP	Internal Revenue Service Acquisition Procedure
JOFOC	Justification for Other than Full and Open Competition
MMK	Departmental Office of Procurement
PIM	Procurement Instruction Memorandum
SBS	Small Business Specialist
SPE	Senior Procurement Executive
TADS	Treasury Acquisition Data System
TIGTA	Treasury Inspector General for Tax Administration

PART 1003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST Subpart 1003.1--Safeguards

1003.101--Standards of conduct.

1003.101-3--Agency regulations.

The Internal Revenue Service rules governing the conduct and responsibilities of bargaining unit regular and special employees are contained in Document 9076, Office of Government Ethics Standards of Ethical Conduct, and its supplement, Document 9335, Interim Handbook of Employee Conduct and Ethical Behavior. Nonbargaining unit employees are covered by Document 9077, Standards of Ethical Conduct and the Department of the Treasury Employee Rules of Conduct.

1003.104--Procurement integrity.

1003.104-3--Definitions.

The deputy ethics official for the Internal Revenue Service is the Associate Chief Counsel (General Legal Services).

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Subpart 1003.5—Other Improper Business Practices

1003.570—Contractor Publicity

- (s-90) Contracting officers shall ensure that contractors do not issue advertisements or press releases that imply an endorsement by the Internal Revenue Service or the Department of the Treasury of the contractor, the contract, or its products and services. Advertisements, press releases, and publicity of a contract by a contractor shall not be made without the prior express written permission of the contracting officer.
- (s-91) In accordance with this subpart, contracting officers shall include a clause substantially the same as the one prescribed in 1052.203.9000 in all solicitations and contracts.

Subpart 1003.6 --

Contracts with Government Employees or Organizations Owned or Controlled by Them

1003.602--Exceptions.

All requests for approval of proposed contracts with employees of the Government or business concerns substantially owned or controlled by Government employees shall be submitted with a justification to GLS for legal review and then to the Director, Procurement for submission to the SPE.

Subpart 1003.8--Limitation on the Payment of Funds to Influence Federal Transactions

1003.804--Policy.

Standard Form LLL, Disclosure of Lobbying Activities, shall be completed when appropriate and submitted to the Office of Procurement Policy.

Subpart 1003.9--Whistleblower Protections for Contractor Employees

1003.905--Procedures for investigating complaints.

- (c) A copy of the report will be provided to the Director, Procurement if the complaint involves a contract awarded or administered by the IRS.

Subpart 1003.90--Separation of Duties and Management Controls

1003.9000--Policy.

- (a) Responsibility for procurement authorization, procurement, custody of resources, and review will be separated in order to provide internal checks on performance and minimize opportunities for unauthorized, fraudulent, or otherwise improper acts.
- (b) To ensure that duties and functions are appropriately separated, no employee shall accomplish more than one of the following functions:
 - (1) Approve the requisition for supplies and/or services
 - (2) Certify the availability of funds
 - (3) Conduct the procurement and execute the contractual document
 - (4) Receive the supplies or services

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- (c) Except in the case of contracts that contain a clause requiring the contracting officer to approve invoices or requests for payment, contracting officers shall not certify or approve invoices for payment and shall not receive accounting copies of receiving reports directly from the consignees. Contracting officers may receive courtesy copies of invoices from contractors.

1003.9001--Exceptions.

- (a) Purchase cardholders may conduct the purchase and receive the supplies or services. Cardholders will receive copies of their statements to reconcile and certify for payment.
- (b) Notwithstanding the Separation of Duties provision in 1003.9000, if a contract contains a clause that requires the contracting officer to approve invoices or requests for payment, then the contracting officer may approve such invoices or requests.

Subpart 1003.91--Vendor Agreements for Free Product Demonstrations

1003.9100--Policy.

- (a) Equipment or other tangible items (usually hardware and software) may be provided to the IRS by a vendor for testing or demonstration purposes at no cost to the Government. These situations shall be coordinated by the program office with the contracting officer and property management office. The contracting officer and the vendor shall execute a written agreement prior to any test or demonstration in order to minimize IRS liability.
- (b) A sample agreement and list of required elements are available from the contracting officer. Additional guidance is provided in P&P 3.1, Vendor Agreements for Free Product Demonstrations, and Document 10603, Personal Property Management Handbook.

PART 1004

ADMINISTRATIVE MATTERS

Subpart 1004.1--Contract Execution

1004.103--Contract Clause.

The Approval of Contract clause at FAR 52.204-1 shall be included in all solicitations, contracts, and modifications that require approval above the contracting officer level.

Subpart 1004.2--Contract Distribution

1004.202-90--Agency distribution requirements.

P&P 4.2, Distribution of Contracts, Contract Modifications, and Purchase/Delivery Orders, provides detailed information on IRS distribution requirements.

- (a) Headquarters will distribute signed copies of contracts, orders, interagency agreements, and modifications to procurement field offices where delivery will be made.
- (b) Headquarters will distribute signed copies of contracts, interagency agreements, and modifications to field procurement offices authorized to issue delivery or task orders against those contracts or agreements. A copy of the initial Individual Contract Action Report (ICAR) will be sent with the contract.

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- (c) Each contract will be accompanied by information establishing a Headquarters point of contact and field office responsibilities for administration.
- (d) Procurement offices will distribute signed copies of contracts, orders, and interagency agreements involving Privacy Act or disclosure implications to the local disclosure office.

Subpart 1004.4--Safeguarding Classified Information within Industry

1004.470--Investigative requirements for contractors.

1004.470.1-90--General.

- (a) *Authority.* Personnel security requirements are derived from Executive Order 10450; OMB Circular A-130, Management of Federal Information Resources; TD P 71 10, Department of the Treasury Security Manual, Chapter II.2 and Chapter IV.3; and Titles 5 and 44 of the U.S. Code.
 - (1) IRM 1.23.2, Contractor Personnel Security, establishes guidelines and procedures for the conduct of security investigations on contractor employees with staff-like access to Treasury-owned or controlled facilities, and contractor employees who work on contracts that involve the design, operation, repair or maintenance of information systems and/or access to sensitive but unclassified (SBU) information.
 - (2) IRM 2.1.10.3, Security in the Acquisition Process, establishes procedures, guidelines, and roles and responsibilities for security investigations in acquisitions of information systems or development of information system applications.

1004.470.2-90--Responsibilities of contracting officers.

- (a) Contracting officers shall incorporate appropriate provisions and clauses, including those contained in this subpart and in IRSAP Subpart 1052, in solicitations, contracts, task orders and interagency agreements, when contractor personnel screening is required as a condition of granting access to IRS facilities or IRS SBU systems and information. Such provisions and clauses shall:
 - (1) Notify potential offerors of the requirements for the background screening or investigation in solicitations;
 - (2) Provide with the solicitation, but no later than at the time of contract award, a current set of investigative request processing forms and instructions to be followed in completing the screening process;
 - (3) Require the contractor, by the terms of the contract, to provide completed investigation data forms in a timely manner for each employee who will be considered for authorized access to IRS facilities, systems, information, or data; and
 - (4) State that the IRS will stipulate that a current individual security clearance granted by the Defense Security Service (DSS), or other federal agency, may be acceptable in place of a new investigation.

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- (b) *Security Plans.* An instruction statement substantially the same as the following should be used when a security plan is required in technical proposals for evaluation of offers:

Security Investigation. The offeror shall address in its technical proposal how it intends to manage the security of sensitive but unclassified (SBU) information systems. This includes developing security procedures, requesting background investigations for employees and subcontractor employees as required and requesting investigations for replacements of such individuals as necessary.

1004.470.90--90--Responsibilities of other officials.

- (a) IRS personnel security officers, in consultation with the contracting officer's technical representative (COTR), computer security officer, or appropriate management official, shall weigh potential risks and the magnitude of loss or harm that could be caused by individual contractor employees and determine risk levels for their facilities, information systems and SBU information.
- (b) In all cases, adjudication of the background investigations will be performed by the IRS Personnel Security Officer.
- (c) *System Security Requirements.* In accordance with IRM 2.1.10.3, Security in the Acquisition Process, the management official responsible for the security of an information system or application will:
 - (1) define and specify technical, administrative, physical, and personnel security requirements in all acquisitions of information systems or development of information system applications; and
 - (2) ensure that appropriate technical, administrative, physical, and personnel security requirements in specifications for the acquisition or operation of information systems are reviewed and approved by the management official responsible for security at the facility operating the information system.
- (d) *Data Access Control Requirements.* Access to SBU information systems and data shall be granted in accordance with the requirements and screening procedures prescribed in IRM 1.23.2, Contractor Personnel Security.

1004.470.1-91 Contract Clauses.

In accordance with this subpart, the contracting officer shall include clauses substantially the same as prescribed in 1052.204-9000 and 1052.204-9001 in solicitations and contracts that require access to IRS SBU systems or information.

Subpart 1004.6--Contract Reporting

1004.690--Standard Form 281, Summary of Contract Actions of \$25,000 or Less.

- (a) SF 281 will be used to report all actions except purchase card actions of \$25,000 or less on a quarterly basis in accordance with PIM 97-02.

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- (b) Quarterly, each Headquarters Procurement Section Chief, each Area Chief Procurement Officer, and each Computing Center Procurement Chief shall submit SF 281 to the Office of Procurement Policy according to the following schedule:

<u>Period</u>	<u>Due Date</u>
October 1 through December 31	January 15
January 1 through March 31	April 15
April 1 through June 30	July 15
July 1 through September 30	October 31

Subpart 1004.70--Numbering of Solicitations, Contracts, and Orders

1004.7001--Numbering.

- (a) In order to establish a uniform prefix for the IRS, the following designations are assigned.

<u>Office</u>	<u>Office Symbol</u>
Headquarters	NO
Detroit Computing Center	DC
Martinsburg Computing Center	MC
Midstates Area	MS
Northeast Area	NE
Southeast Area	SE
Western Area	WR

- (b) Following the symbol prescribed for the Internal Revenue Service by DTAR 1004.7000 is a hyphen, followed by the fiscal year in which the document is issued. Separated by a hyphen is a symbol for the procurement office as shown in paragraph (a) of this section. Separated by a hyphen is an alpha character representing the contract action type as defined in the Integrated Procurement System (IPS). Separated by a hyphen is the sequential number identifying the document. A separate series of sequential numbers are used for solicitations, contracts, orders, and interagency agreements.
- (c) Amendments to solicitations and modifications to contracts, orders, and interagency agreements will be given the same number as the basic document with supplemental sequential numbering for each amendment/modification.
- (d) Contract Line Item Numbers (CLINs) shall consist of a base configuration of four numeric characters, with leading zeroes, assigned sequentially, and an optional suffix consisting of two alphabetic characters.
- (e) Business Units shall establish a purchase order numbering system for Forms 6888, Purchase Order-Invoice-Voucher, which are issued to designated Revenue Officers, Property Appraisal and Liquidations Specialists (PALS), and Special Agents. The numbering system shall provide for the assignment of unique numbers to Forms 6888 and enable identification of the Business Unit conducting the purchase and the fiscal year in which the transaction occurred.

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Subpart 1004.71--Legal Review

1004.71-90--General.

P&P 4.1(B), Procurement Reviews, contains detailed information about thresholds for legal review of IRS procurement actions, as well as responsibilities and requirements for responding to legal review comments. Additional information regarding review thresholds is provided in P&P 17.5, Interagency Agreements.

Subpart 1004.72--Staff Review

1004.72-90--General.

P&P 4.1(B), Procurement Reviews, contains internal review requirements for IRS procurement actions.

1004.7202--Departmental review comments and approval.

P&P 4.1(B), Procurement Reviews, contains detailed information about responsibilities and requirements for responding to Departmental review comments.

PART 1005

PUBLICIZING CONTRACT ACTIONS

Subpart 1005.2--Synopsis of Proposed Contract Actions

1005.202--Exceptions.

Requests for head of agency determinations under DTAR 1005.202(b) shall be submitted to the Office of Procurement Policy. If a request for a class action has implications beyond the office submitting the request, the Office of Procurement Policy will coordinate with other Area Chief Procurement Officers to summarize the impact on the bureau. The Office of Procurement Policy will forward the request through the Director, Procurement to the SPE.

Subpart 1005.3--Synopsis of Contract Awards

1005.303--Announcement of contract awards.

- (a) Contracting officers shall make information available, as prescribed in FAR 5.303(a), on contract awards exceeding \$20 million. Detailed procedures are provided in P&P 5.3, Announcement of Contract Awards.

Subpart 1005.5--Paid Advertisements

1005.502--Authority.

- (s-90) Paid advertisements in newspapers, periodicals, or other printed media shall be authorized by the Director, Procurement.
- (s-91) Exceptions
 - (1) The Commissioner has signed a blanket approval for personnel recruitment.
 - (2) Paid advertisements for the sale of seized property are authorized by statute. Revenue Officers and Property Appraisal and Liquidation Specialists (PALS) may place orders for announcements up to the micro-purchase threshold. Special Agents may place orders for announcements in accordance with Handbook 9781, Handbook for Special Agents.

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- (3) Orders for announcements pertaining to Taxpayer Problem Solving Days, Volunteer Income Tax Assistance (VITA), and similar events sponsored by the IRS may be approved by the Director, Office of Procurement Operations, the Director, Office of Field Procurement Operations, and Area Chief Procurement Officers when the total cost of the order does not exceed \$25,000.

PART 1006 COMPETITION REQUIREMENTS Subpart 1006.2--Full and Open Competition after Exclusion of Sources

1006.202--Establishing or maintaining alternative sources.

- (b) The D&F shall be submitted to the Office of Procurement Policy for review.

Subpart 1006.3--Other than Full and Open Competition

1006.302--Circumstances permitting other than full and open competition.

1006.302.7--Public interest.

P&P 6.3, Justification for Other Than Full and Open Competition, provides detailed information and procedures concerning required justifications.

- (c)(1)(ii) The D&F shall be submitted to the Office of Procurement Policy for review.
- (c)(2) The Office of Procurement Policy will be responsible for Congressional notification.
- (c)(3) The contracting officer shall prepare a justification in support of the D&F.

1006.303--Justifications.

1006.303-2--Content.

- (a) TDF 76-01.6, Justification for Other Than Full and Open Competition, shall be used to document justifications and approvals greater than \$100,000.

1006.304--Approval of the justification.

- (e) The estimated dollar value of all options shall be included in determining the approval level of a justification.

PART 1007 ACQUISITION PLANNING Subpart 1007.1--Acquisition Plans

1007.104-90--General procedures.

- (a) The Director, Procurement will issue an annual Servicewide Advance Acquisition Plan (AAP) that covers the subsequent two fiscal years. The AAP will include new contracts, replacements for existing contracts, interagency agreements, and task orders for services that exceed the simplified acquisition threshold. Annually, each Business Unit Commissioner and Chief Officer is asked to forecast procurements covered by the AAP and to provide the following information for each planned procurement:
 - (1) requiring organization name;

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- (2) requiring office location;
 - (3) project manager/officer name and telephone number;
 - (4) fiscal year the requisition will be submitted to Procurement;
 - (5) brief description of the procurement;
 - (6) identification of requirement as modernization or not;
 - (7) identification of corresponding strategic/spending plan;
 - (8) Department of the Treasury approval required (Y/N);
 - (7) estimated value of the procurement (base and option years);
 - (8) target dates for award and for delivery/performance;
 - (9) identification of requirement as a new or replacement contract; and
 - (10) name and signature of responsible program/customer official.
- (b) Procurement staff will conduct planning meetings with customers to review and agree on the acquisition strategy for planned procurements. Each Office Director and ACPO will submit a completed AAP to the Director, Office of Procurement Policy. The AAP agreement form and instructions are available on the IRS Intranet at <http://awss.procurement.irs.gov/forms/aapaform.xls>.
- (c) Annually, Procurement will establish schedules for submission of requisitions to the Headquarters and area procurement offices with emphasis on fourth quarter submissions. The schedules, with lead times and cut-off dates, will be distributed to program offices to aid them in planning year-end procurement requests.

PART 1008 REQUIRED SOURCES OF SUPPLIES AND SERVICES Subpart 1008.4-Federal Supply Schedules

1008.404-3--Requests for waiver.

- (a) All requests for waivers of the requirement to use a mandatory schedule will be submitted to the Director, Procurement. Waiver requests shall not be forwarded directly to GSA.

Subpart 1008.8--Acquisition of Printing and Related Supplies

1008.802--Policy.

- (b) All procurements for printing shall be approved by the Director, Multimedia Publishing or designee.

PART 1009 CONTRACTOR QUALIFICATIONS Subpart 1009.4--Debarment, Suspension, and Ineligibility

1009.405--Effect of listing.

- (a) When it is in the best interest of the Service to award a contract or order to a firm named in the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, requests to the AS(M) shall be approved by the Director, Procurement.

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Subpart 1009.5--Organizational and Consultant Conflicts of Interest

1009.507--Solicitation provisions and contract clause.

1009.507-1-90--Solicitation provisions.

Contracting officers shall include a provision similar to the sample provision in 1052.209-9000, Organizational Conflict of Interest Notification, in all solicitations, including simplified acquisitions, when an actual or potential organizational conflict of interest has been identified.

1009.507-2-90--Contract clause.

Contracting officers shall include a clause similar to the sample clause in 1052.209-9001, Organizational Conflict of Interest, in all contracts, including purchase and delivery orders awarded using simplified acquisition procedures, when an actual or potential organizational conflict of interest has been identified.

PART 1010 RESERVED

PART 1011 DESCRIBING AGENCY NEEDS

1011.002--Policy.

- (a) All requests to utilize unique specifications and standards for repetitive procurements shall be submitted to the Director, Procurement.
- (d) Requiring activities must prepare specifications, standards, and purchase descriptions that consider the requirements in FAR Part 23 and IRSAP 1023 related to resource conservation and environmentally preferable products.

1011.002-90--Responsibilities.

- (a) The contracting officer is responsible for the accuracy, legality, and completeness of the entire contractual document. To ensure the adequacy of purchase descriptions, specifications, standards, and security requirements, including background investigations, the contracting officer will consult and coordinate with technical program personnel.
- (c) The technical program office is responsible for providing the contracting officer with the following:
 - (1) A proper procurement request (requisition) prepared and submitted in accordance with Request Tracking System (RTS) requirements, available on the Procurement Intranet;
 - (2) A statement of work (SOW) that clearly defines the work effort required and specific tasks to be accomplished by the contractor. Additional guidance is available in the Statement of Work Guide on the Procurement Intranet. The SOW may not include a requirement for personal services, as described in FAR 37.104.
 - (3) Security requirements, including security investigations on contractor employees;
 - (4) Quality assurance requirements for determining acceptable performance;

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- (5) A list of deliverables and due dates;
- (6) Disclosure Office approval if applicable;
- (7) Security review and recommendations, if applicable; and
- (8) Any additional requirements for Business Unit review and approval, such as Section 508 considerations and determinations or Software CMM requirements.

1011.202--Maintenance of standardization documents.

- (a) All proposed recommendations for changes to standardization documents listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions shall be submitted to the Director, Office of Procurement Policy for review and transmission to the SPE.

1011.5--Liquidated damages.

1011.502--Policy.

- (d) All proposed recommendations for remission of liquidated damages by the Comptroller General in accordance with FAR 11.502(d) shall be submitted to the Director, Office of Procurement Policy for review and transmission to the SPE.

PART 1012

ACQUISITION OF COMMERCIAL ITEMS

Subpart 1012.3--Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

1012.302--Tailoring of provisions and clauses for the acquisition of commercial items.

- (c) Requests for waivers shall be submitted to the Office of Procurement Policy for approval by the Director, Procurement and the Bureau Competition Advocate.

PART 1013

SIMPLIFIED ACQUISITION PROCEDURES

1013.001-90--Definitions.

"BPA Administrator" as used in this subpart, means the requiring activity's point of contact for a Blanket Purchase Agreement (BPA). The BPA administrator is responsible for submitting BPA logs to the servicing procurement office.

Subpart 1013.3--Simplified Acquisition Methods

1013.301--Governmentwide commercial purchase card.

- (a) Purchase cards may be used to purchase supplies and services. The card is available to procurement and nonprocurement personnel.
- (d) Document 9185, IRS Purchase Card Guide, provides Servicewide policies and guidance for obtaining and using a purchase card. The AWSS Office of Customer Support is responsible for administration of the Purchase Card Program, including account setup, account maintenance, and training.

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- (s-90) Non-procurement personnel are normally limited to the micro-purchase threshold for use of the purchase card, although their cards may have lower dollar limits. Procurement personnel must have a warrant to place an order in excess of the micro-purchase threshold using a purchase card.
- (s-91) The Restricted Purchase List is posted on the ERC web site under *Purchase Cards*. It is the most current source of information about items that may not be acquired with the Purchase Card.

1013.303--Blanket Purchase Agreements (BPAs).

1013.303-2-90--Establishment of BPAs.

- (a) The request to establish a BPA shall contain a list of products or services to be obtained, statement of need, estimated annual usage, list of callers, and the name of the BPA administrator.
- (b) Procurement offices shall ensure that callers are properly trained and that they receive recordkeeping and reporting instructions
- (c) The maximum individual purchase using a BPA shall not exceed the simplified acquisition threshold. Individual transactions against BPAs in excess of 10% of the simplified acquisition threshold shall have the prior written approval of the contracting officer. The contracting officer shall ensure these transactions have the documentation necessary to justify the award.
- (d) BPAs established for more than one year need not be renewed annually.
- (e) A log shall be maintained for each BPA by the individuals authorized to use the BPA. The log will contain one entry for each call order placed against the BPA. Form 8567, BPA Monthly User Log, is available at <http://irweb.irs.gov/fpd>.
- (f) Failure to maintain logs or to abide by the regulations covering BPAs may result in cancellation of an individual's authority to use the BPA.

1013-305--Imprest funds and third party drafts.

1013.305-2--Agency responsibilities.

- (e) The authority to appoint Imprest Fund authorizing officials is delegated to the ACPOs, the MCC Procurement Chief, and the Director, Office of Procurement Operations. The authority to appoint authorizing officials for Investigative Imprest Fund(s) is delegated to the Chief, Criminal Investigation. The appointments shall be in writing and shall be consistent with the policy in 1003.9000. Imprest fund purchases shall conform to statutory and regulatory guidelines. Therefore, as a condition for appointment as an Imprest Fund authorizing official, employees shall sign a certification that they have read and understand Document 10834, IRS Guide for Imprest Fund Authorizing Officials. The certification form is included in the Guide. The original, signed certification shall be submitted to the appointing official. IRM 1724, Imprest Fund Handbook, and the Treasury Financial Manual, 1 TFM 4-3040.10, contain more detailed information.

Subpart 1013.90--Additional Simplified Acquisition Procedures

1013.9000--Form 6888, Purchase Order-Invoice-Voucher.

- (a) Revenue Officers, GS-9 and above, Property Appraisal and Liquidation

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Specialists (PALS), and Special Agents, GS-12 and above, trained in computer seizure have the authority to issue purchase orders using Form 6888 for seizure-related expenses unless such authority is retracted in writing by their Area Compliance Directors or Field Operations Directors.

- (c) Forms will be issued and controlled by Area Compliance and CI Field Operations management.

PART 1014 RESERVED

PART 1015 CONTRACTING BY NEGOTIATION

Subpart 1015.2--Solicitation and Receipt of Proposals and Information

1015.201--Exchanges with industry before receipt of proposals.

- (s-90) Exchanges between government and industry begin in the acquisition planning phase and continue after release of a solicitation until receipt of proposals. Exchanges are encouraged in order to improve understanding of government requirements and industry capabilities. They may occur among all interested parties, including potential offerors, end users, program officials, procurement personnel and any others involved in the conduct or outcome of the acquisition. Information that may be disclosed during this stage includes:
 - (1) Proposed contract type;
 - (2) Proposed terms and conditions;
 - (3) Acquisition planning schedules;
 - (4) Feasibility of the requirement;
 - (5) Performance requirements, statements of work, and data requirements;
 - (6) Suitability of proposal instructions and evaluation criteria;
 - (7) Approach for assessing past performance; and
 - (8) Other acquisition strategy questions or concerns.
- (s-91) Although general information about agency mission needs and future requirements may be disclosed at any time, the contracting officer must be present if potential contract terms or conditions, such as proposal instructions or evaluation criteria, will be discussed. Once the solicitation has been issued, the contracting officer becomes the focal point for all exchanges.
- (s-92) Any exchange of information must be consistent with procurement integrity requirements. The requiring office should not disclose any information that would give one company a competitive advantage over another.

Subpart 1015.3--Source Selection

1015.303--Responsibilities.

- (a) The contracting officer is designated as the source selection authority for all acquisitions unless the Director, Procurement appoints another source selection authority for a specific acquisition or class of acquisitions.
- (s-90) P&P 15.3, Source Selection, provides IRS source selection policies and procedures.

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Subpart 1015.4--Contract Pricing

1015.403--Obtaining cost or pricing data.

1015.403-1--Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

- (c)(1)(I)(B) The contracting officer's finding of unreasonableness of the otherwise successful offeror shall be submitted to the Cost and Price Analysis Branch, Office of Procurement Policy. Any finding that the price is unreasonable must be supported by a statement of facts and must be approved at a level above the contracting officer.
- (c)(4) Requests for waiver of the requirement for submission of certified cost or pricing data shall be submitted to the Office of Procurement Policy for review prior to approval by the Director, Procurement.

1015.404-2--Information to support proposal analysis.

- (a) The Office of Procurement Policy is responsible for all formal communications with TIGTA and the audit agency. Communication with auditors for purposes such as rate checks is considered informal communication. P&P 15.4(A), Audit Assistance, provides additional information.

Subpart 1015.6--Unsolicited Proposals

1015.606--Agency procedures.

- (a) IRS procedures are published in [A Guide for Preparing and Submitting Unsolicited Proposals](#), available via the Internet.
- (b) All unsolicited proposals received in IRS shall be forwarded to the Office of Procurement Policy for consideration.

PART 1016

TYPES OF CONTRACTS

Subpart 1016.5--Indefinite-Delivery Contracts

1016.505--Ordering.

- (b)(4) The IRS Task Order/Delivery Order Contract Ombudsman is the Chief, Policy and Procedures Branch, Office of Procurement Policy. The Ombudsman is responsible for reviewing complaints from IRS contractors to ensure that all are afforded a fair opportunity to be considered for each order, consistent with contract procedures. Contracting officers shall include the clause in 1052.216-9000 in solicitations and contracts that involve issuance of task and delivery orders on a multiple award basis.

PART 1017

SPECIAL CONTRACTING METHODS

Subpart 1017.5--Interagency Acquisitions Under the Economy Act

1017.502-90--General.

- (a) The Economy Act is the authority for entering into an interagency agreement **only** when no more specific authority applies. Additional authorities include, but are not limited to, the Government Employees Training Act, the Government

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Management Reform Act of 1994, and OPM Revolving Fund Authority. Detailed policies and procedures are provided in P&P 17.5, Interagency Agreements.

1017.503--Determinations and findings requirements.

- (c) The SPE has authorized a class deviation allowing delegation of authority to the Director, Procurement to approve D&Fs for interagency agreements with agencies not covered by the FAR. All D&Fs for such agreements, regardless of dollar amount, shall be forwarded through the Office of Procurement Policy to the Director, Procurement for approval.

1017.504--Ordering procedures.

- (s-90) IRS funds-out interagency agreements shall be processed in the Request Tracking System/Integrated Procurement System (RTS/IPS).
- (s-91) All funds-out interagency agreements shall be executed by signature of an IRS contracting officer.

1017.9000--Responsibilities.

- (a) Administration of interagency agreements will include the following functions, at a minimum:
 - (1) Formal designation of a COTR, if applicable;
 - (2) Performance monitoring;
 - (3) Reimbursement monitoring;
 - (4) Resolution of performance/compliance issues;
 - (5) Resolution of disputes over interagency agreement terms and conditions;
 - (6) Deobligation of funds as necessary; and
 - (7) Close-out functions.
- (b) The COTR will complete receipt and acceptance in RTS. In the case of OPAC payments, the COTR will review and approve documentation and expense reports furnished to substantiate the OPAC transactions. Receipt and acceptance for advance OPAC payments will not be accomplished until goods and/or services have been received and the COTR has approved documentation provided by the servicing agency. The COTR will forward supporting documentation to Beckley Finance Center within 10 work days after receipt. The COTR will also assist in reconciling final payment amounts.

Subpart 1017.90--Auctioneer Services

1017.9000--General.

- (a) The procurement of auctioneer services is occasionally required for disposal of seized taxpayer property. Due to the infrequency of the requirement, BPAs may not be used for this purpose. Contracting officers should attempt to solicit firm fixed price proposals. If it is not possible to negotiate a fixed price contract or purchase order at a fair and reasonable price, the following procedures shall apply.
 - (1) The contracting officer may solicit quotations for an auctioneer fee based on a percentage of proceeds from the sale.

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- (2) The requesting function shall furnish a "best estimate" of the proceeds at the time of the solicitation.
 - (3) The contract or purchase order must state the percentage to be applied to the auction's proceeds, and it must obligate an estimated dollar amount equal to the auctioneer's percentage of the proceeds from the sale based on the best estimate of the proceeds.
 - (4) The contract/purchase order will clearly state any additional charges which the auctioneer may charge and obligate funds for such charges.
 - (5) If the auctioneer's actual fee differs from the estimate, the contract/purchase order will be modified to reflect the difference.
- (b) Auctioneer services may be obtained using a Purchase Card or Form 6888, Purchase Order-Invoice-Voucher (see Subpart 1013.9000). Requesters should attempt to obtain a fair and reasonable, firm fixed price for auctioneer services in advance of performance. However, the auctioneer may require a fee based on a percentage of proceeds from the sale. Before using the Purchase Card or Form 6888, requesters shall ensure that the total auctioneer fee, including miscellaneous charges, will not exceed their delegation of procurement authority, which is usually limited to the micro-purchase threshold. This should be accomplished by obtaining a written document from the merchant stating a not-to-exceed total dollar amount for the auctioneer services to be provided.

PART 1018 RESERVED

PART 1019 SMALL BUSINESS PROGRAMS Subpart 1019.2--Policies

1019.201--General policy.

- (d) The Small Business Specialist (SBS) in Headquarters is authorized to approve all subcontracting plans for contracts with a value of \$100 million or less.

PART 1020 RESERVED

PART 1021 RESERVED

PART 1022 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS Subpart 1022.3--Contract Work Hours and Safety Standards Act

1022.302--Liquidated damages and overtime pay.

- (c) Requests for adjustment in, or to release the contractor or subcontractor from, the liability for liquidated damages shall be submitted to the Director, Procurement.

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Subpart 1022.4--Labor Standards for Contracts Involving Construction

1022.406--Administration and enforcement.

1022.406-8--Investigations.

- (d)(1) Reports of violations, including findings and supporting evidence, shall be submitted by the Director, Procurement to the SPE.

Subpart 1022.10--Service Contract Act of 1965

1022.1008--Procedures for preparing and submitting Notice (SF98/98a).

1022.1008-2--Preparation of SF 98a.

- (a) In order to provide the information required by the Department of Labor on SF-98/98a, the requisitioner will identify the IRS job description for comparable work and hourly rate for Step 1 of the grade level matched thereto. Verification of these rates will be provided by the servicing personnel office. If no comparable position exists within IRS, the local personnel office will be requested to assist the requisitioner in identifying a comparable position and hourly wage rate. Requests to personnel offices must be in writing.

PART 1023

ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 1023.4--Use of Recovered Materials

1023.404--Agency affirmative procurement programs.

- (a) The responsibility for affirmative procurement programs shall be shared between technical program offices and Procurement.

1023.405--Procedures.

- (c) Determinations to acquire EPA designated items that do not meet the EPA minimum recovered material standards shall be approved by the Deputy Assistant Secretary (Management and Operations). Technical or requesting personnel shall provide a written statement when the request for exemption is based on failure of an item to meet performance standards in the specifications. Requests for determinations shall be forwarded to the Office of Procurement Policy for coordination and transmission to the Deputy Assistant Secretary.

PART 1024

PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1024.90--Disclosure of Information

1024.9000--Procurement of property and services for tax administration services.

- (a) Internal Revenue Code (IRC) section 6103(n) and the regulations issued thereunder authorize the disclosure of returns and return information in connection with procurements for tax administration purposes. Disclosures made in violation of IRC 6103(n) may subject contractors and their employees to criminal and civil sanctions under IRC 7213 and 7431. All procurement requests subject to the requirements of IRC 6103(n) must:

- (1) Be approved by the Director or equivalent of the requesting activity;

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- (2) Include a statement that returns or return information may be disclosed;
 - (3) Include any special safeguards required of the prospective contractor to protect the material furnished to the contractor;
 - (4) Indicate that such disclosure is possible and include the local Disclosure office in the requisition approval path; and
 - (5) Be reviewed and approved by the local Disclosure office and, when appropriate, by physical and/or computer security personnel.
- (b) Procurement personnel will return for proper documentation any request of this type which does not meet all of the requirements listed in paragraph (a) of this section.
- (c) Solicitations for information technology (IT) services which involve the use of return information will contain a request to prospective offerors for a copy of any risk analysis accomplished by the offeror within the previous 12 months, a copy of any internal security review and findings within the previous 12 months, a copy of the offeror's policies and procedures relating to security, a narrative describing the equipment and operating system configuration and hardware/software security feature thereof, and an organization chart that includes the offeror's key personnel by name and title. Copies of the documents shall be forwarded to the local Disclosure office with a copy of the contractual instrument after award.
- (d) When IRS Security officials determine that a pre-award site survey is necessary to verify that the security of the offeror's facility is adequate, the contracting officer shall notify offerors that such a survey will be necessary and will coordinate the arrangements with offerors as necessary. No contract, delivery/purchase order, or BPA will be awarded until the survey is conducted. Verbal findings of such surveys will be provided to the contracting office immediately, and written findings will be provided within five working days. The recommendations of Disclosure and Security personnel will be a significant factor in the determination of responsibility. If Disclosure and/or Security personnel request prior notification of orders placed against BPAs, no orders will be placed until such notice is given and reviews are conducted.
- (e) All contracts, purchase/delivery orders, interagency agreements, and BPAs that involve the design, development, maintenance, and/or operation of a system of records on behalf of the IRS must state that fact. All contracts that would normally be awarded unilaterally, including BPAs, shall require a written agreement to the terms and conditions of the contract. The contracts shall contain the Privacy Act notification and the Privacy Act clause as required by FAR 52.224-1 and 52.224-2. All requests by the contractor to disclose information other than to the contractor's officers and employees shall be submitted to the contracting officer, whose approval will not be given without concurrence of the local Disclosure Officer. The contracting officer shall notify local TIGTA and Disclosure offices when an infraction of the disclosure provision is suspected.

1024.9001--Safeguard clauses.

Include the clauses in 1052.224-9000 through 1052.224-9003 in solicitations, contracts, orders, BPAs, purchase card purchases, and interagency agreements requiring the disclosure of returns, return information, and/or "Official Use Only" information under the circumstances described therein.

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Subpart 1024.91--Locksmith Services

1024.9100--Clause.

Include the Indemnification of Locksmiths and Tow Truck Operators clause in 1052.224-9004 in all contracts, purchase/delivery orders, purchase card purchases, and BPAs for seizure-related locksmith and tow truck operator services. The purchase cardholder will provide a copy of the clause to the vendor at the time of purchase.

Subpart 1024.92--Appraisal Services

1024.9200--Certification.

Prior to the receipt of a solicitation for appraisal services, firms shall be required to certify their agreement not to disclose taxpayer information by the certification in 1052.224-9005.

1024.9201--Clauses.

- (a) Include the clause in 1052.224-9006 in all contracts and orders for appraisal services.
- (b) Include the clause in 1052.224-9007 in contracts and orders when it is known that a contractor may be required to make disclosures to courts of record or other sources in order to satisfy the contract requirement.

PART 1025

FOREIGN ACQUISITION

Subpart 1025.1--Buy American Act--Supplies

1025.102--Policy.

- (a) Submit requests under FAR 25.103(a) to the Director, Procurement for transmittal to MMK.

1025.104--Nonavailable articles.

- (b) Contracting officers shall forward information justifying the removal of an item from the list in FAR 25.104(a) to the Director, Procurement for submission to the SPE.

PART 1026

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PART 1027

PATENTS, DATA, AND COPYRIGHTS

Subpart 1027.2--Patents

1027.205--Adjustment of royalties.

Contracting officers shall forward reports of inconsistent, excessive, or improper royalties to GLS through the Office of Procurement Policy. The reports and any response from GLS shall be submitted to the Director, Procurement for submission to MMK.

Subpart 1027.3--Patent Rights under Government Contracts

1027.303--Contract clauses.

Determinations to sublicense foreign governments or international organizations shall be submitted to the Director, Procurement for submission to MMK.

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Subpart 1027.4--Rights in Data and Copyrights

1027.470--Software Escrow.

1027.470-1--General.

Contracting officers may employ an industry practice, commonly used in connection with custom application software, in which software source code materials are placed in escrow to guard against the occurrence of substandard performance or total failure of operational computer support systems due to ineffective or discontinued maintenance support of the custom application software. This practice may also be adapted for use with commercial off-the-shelf (COTS) software licensing agreements when that software is considered essential to maintaining the contractually adequate performance level of a larger, custom application system.

1027.470-2--Applicability.

When used, software escrow procedures shall provide for a neutral, third-party "Escrowee" to retain continuously updated copies of source code material for contracts affecting essential operational tax support systems. In the event of substandard contract performance warranting partial or total termination for default, the contract shall grant a right to the Government for the contracting officer to request that the source code material be delivered by the Escrowee to the Government for the express purpose of returning the software to an acceptable level of performance. Aside from simply holding the source code materials in escrow, commercial sources may be required to compile the software code to verify that it produces executable code identical to the code delivered or proposed for use under the contract.

The use of software escrow provisions in a contract for information technology resources may be appropriate if:

- (a) the contracting officer determines that software escrow provisions are necessary to protect the Government's interest in supporting the operation of essential custom application system(s);
- (b) the nature of the software being acquired and the criticality of its use justify the increased price that the Government can expect to pay for this service; and
- (c) readily available commercial sources can offer the necessary escrow services at a fair and reasonable price.

1027.470-3--Waiver.

Software escrow procedures may be waived by the contracting officer as described in 1052.227-9000(e). Any decision regarding such waivers shall be documented in the contract file. In granting a request for waiver, in whole or in part, the contracting officer may consider any fact found relevant to exercising informed discretion, including, but not limited to:

- (a) the extent of the offeror's (and its subcontractor's) experience in supporting and maintaining software on projects of similar or larger scope and dollar value;
- (b) the sufficiency and quality of the offeror's (and its subcontractor's) past performance; and
- (c) the market strength and influence of the offeror, its subcontractors, and any involved software suppliers.

1027.470-4--Contract Clause.

As prescribed in 1027.470-2, the contracting officer may include a clause that is substantially the same as the clause in 1052.227-7000, Documentation, Escrow, and Code Deliverables, in solicitations and contracts for information technology containing software escrow requirements.

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This clause shall be used in addition to data rights clauses in FAR 52.227-14, Rights in Data-General, alternates II, III, IV, or V, as appropriate.

PART 1028
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PART 1029
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PART 1030
RESERVED

PART 1031
RESERVED

PART 1032
CONTRACT FINANCING

1032.003--Simplified acquisition procedures financing.

- (s-90) Contracting officers and purchase cardholders may authorize advance payments for commercial items within the micro-purchase threshold, subject to their delegated authority, when advance payments are appropriate or customary in the commercial marketplace.

Subpart 1032.2--Commercial Item Purchase Financing

1032.202-1--Policy.

- (b)(2) Commercial interim and advance payments may also be made when the contract price is at or below the simplified acquisition threshold.

Subpart 1032.4--Advance Payments for Noncommercial Items

1032.402--General.

- (e)(1) Recommendations for approval of advance payments and related case files shall be submitted to the Office of Procurement Policy for coordination and transmission to the SPE.

1032.407--Interest.

- (d) Recommendations for approval of advance payments without interest as provided in FAR 32.407(d) and 32.409-1 shall be submitted to the Office of Procurement Policy for coordination and transmission to the SPE.

Subpart 1032.5--Progress Payments Based on Costs

1032.501-2--Unusual progress payments.

- (a)(3) Contracting officers must coordinate requests by contractors for unusual progress payments with the Office of Procurement Policy. Such requests may be approved by an official at one level above the contracting officer.

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PART 1033 PROTESTS, DISPUTES, AND APPEALS Subpart 1033.1--Protests

1033.102--General.

P&P 33.1, Resolving Solicitation and Contract Award Protests, provides guidance on protests.

Subpart 1033.2--Disputes and Appeals

1033.209--Suspected fraudulent claims.

Contracting officers shall submit a copy of the information provided to TIGTA regarding suspected fraudulent claims to the Director, Procurement.

1033.212--Contracting officer's duties upon appeal.

- (s-90) The contracting officer shall submit the appeal file within ten calendar days of receipt of the appeal to the Office of Procurement Policy, which will forward the file to GLS within 15 calendar days of receipt of the appeal. GLS shall have 15 days to review the file and file the appeal with GSBGA.

PART 1034 RESERVED

PART 1035 RESERVED

PART 1036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS Subpart 1036.6--Architect-Engineer Services

1036.602--Selection of firms for architect-engineer contracts.

1036.602-2--Evaluation boards.

- (a) The Architect-Engineer Evaluation Board will be appointed by the Chief, Architect/Engineering Planning and Support Branch, Office of Real Estate and Facilities Management. The board will include three to five Government employees. Members of the board who are not employees of the Government may be appointed only with the consent of the Director, Procurement.

1036.602-3--Evaluation board functions.

- (d) The selection report shall be prepared for the approval of the Chief, Architect/Engineering Planning and Support Branch.

1036.602-4--Selection authority.

- (a) The Chief, Architect/Engineering Planning and Support Branch shall serve as the designated selection authority.

PART 1037 SERVICE CONTRACTING Subpart 1037.1--Service Contracts--General

1037.112--Government use of private sector temporaries.

Refer to P&P 37.1, Use of Private Sector Temporaries. All procurement requests shall contain written coordination by the servicing personnel office.

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Subpart 1037.2--Advisory and Assistance Services

1037.203--Policy.

- (s-90) Include the clause in 1052.237-9000 in all solicitations, requests for quotations, contracts, purchase orders, and delivery orders if deemed appropriate by the contracting officer, for source selection evaluation services, evaluation of offerors' capabilities, or the evaluation of other contractors'/vendors' products and/or services delivered under an IRS contract, purchase order, or delivery order.

PART 1038 RESERVED

PART 1039 ACQUISITION OF INFORMATION TECHNOLOGY

1039.1--General.

1039.102--Management of risk.

- (s-90) Include the clause in 1052.239-9000 in all solicitations and contracts for purchase of information technology and telecommunications equipment.
- (s-91) Include the clause in 1052.239-9001 in all solicitations and contracts for lease of information technology and telecommunications equipment.

1039.9000--Procurement requests.

- (a) Requests for information technology products or services shall be submitted with all CIO-required approvals.

1039.9100--Software development prerequisite.

- (a) IRS requires all software development contractors to possess a capability rating of at least Level 2 as described by the Software Engineering Institute Software Capability Maturity Model Integration® (CMMI®-SW). P&P 39.1(B) provides additional information on CMMI-SW requirements.
- (b) Include the provision in 1052.239-9004 in Section L of all solicitations for software development services unless there is express direction otherwise from the technical program office.
- (c) Include the clause in 1052.239-9005 in Section H of all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs for software development, unless there is express direction otherwise from the technical program office.
- (d) Include the supplement to the clause in 1052.239-9006 in Section H of all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs for software development, as appropriate, unless there is express direction otherwise from the technical program office.

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1039.9200—Contractor access and use of IRS systems.

P&P 39.1, Access, Use or Operation of IRS Information Technology (IT) Systems by Contractors, provides detailed procedures to be followed whenever contractor employees will have access to or use of IRS information technology systems and resources.

1039.9201—Contract clause.

Contracting officers shall include the clause in 1052.239-9007 in all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs, including simplified acquisitions, when contractor employees will have access to or use of IRS information technology systems, equipment or resources.

PART 1040
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PART 1042
CONTRACT ADMINISTRATION AND AUDIT SERVICES
Subpart 1042.3--Contract Administration Office Functions

1042.301--General.

IRS procedures for contract administration are provided in Document 10013, Contract Administration Guidelines.

Subpart 1042.15--Contractor Performance Information

1042.1502--Policy.

- (a) P&P 42.15, Past Performance Information, provides IRS policy and procedures concerning contractor past performance.

1042.1503--Procedures.

- (a) IRS uses the National Institutes of Health Contractor Performance System (CPS) to collect, report, and evaluate past performance information. The contracting officer is the focal point for obtaining past performance information. The COTR is responsible for providing input on contractor performance in accordance with CPS format requirements and supporting the contracting officer in resolving contractor performance issues.
- (b) Insert the clause in 1052.242-9000, Post Award Evaluation of Contractor Performance, in all contracts valued at \$100,000 or more.
- (c) Interim and final evaluations will be provided to the contractor as soon as practicable after completion of the evaluation. The contractor will be permitted thirty days to review the document and to submit additional information or a rebuttal statement. Contractors may access their evaluations through a secure Web site for review and comment by completing the registration form available via the Internet at http://oamp.od.nih.gov/OD/CPS/cps_contractor.htm.

PART 1043
RESERVED

PART 1044
RESERVED

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PART 1045 GOVERNMENT PROPERTY Subpart 1045.3--Providing Government Property to Contractors

1045.302--Providing facilities.
1045.302-1--Policy.

- (a)(4) Determinations to provide facilities to a contractor shall be submitted to the Director, Procurement through the Office of Procurement Policy.

Subpart 1045.4--Contractor Use and Rental of Government Property

1045.403 Rental--Use and Charges clause.

- (a) Determinations specified in FAR 45.403(a) shall be submitted to the Director, Procurement for transmittal to the SPE.

1045.407--Non-Government use of plant equipment.

- (a) Determinations to authorize non-Government use of active plant equipment exceeding 25 percent shall be submitted to the Director, Procurement for transmittal to the SPE.

PART 1046 QUALITY ASSURANCE Subpart 1046.6--Material Inspection and Receiving Reports

1046.670--Inspection and receiving report.

- (s-90) Receipt of supplies and services shall be performed in RTS.

1046.671--Acceptance report.

- (s-90) Acceptance of supplies and services shall be performed in RTS.

PART 1047 TRANSPORTATION Subpart 1047.2--Contracts for Transportation or for Transportation-Related Services

1047.207--Solicitation provisions, contract clauses, and special requirements.
Include the clause in 1052.247-9000 in all solicitations, contracts, BPAs, and orders for armored car services.

PART 1048 VALUE ENGINEERING Subpart 1048.1--Policies and Procedures

1048.102--Policies.

- (a) Requests for exemption from the requirement to include value engineering clauses in contracts, as prescribed in FAR 48.102(a), shall be submitted to the Office of Procurement Policy for transmittal to the Director, Procurement and SPE.
- (d) The Office of Contract Administration is responsible for processing, tracking, and reporting all value engineering change proposals (VECPs).

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1048.103--Processing value engineering change proposals (VECPs).

- (a) Technical program personnel shall be responsible for evaluating VECPs to determine the technical feasibility, usefulness, and adequacy of the contractor's estimate of cost savings. A report of findings and recommendations shall be submitted to the contracting officer.

Subpart 1048.2--Contract Clauses

1048.201--Clauses for supply or service contracts.

- (a)(6) Requests to exempt a contract or a class of contracts from FAR Part 48 shall be submitted to the Director, Procurement.

PART 1049
RESERVED

PART 1050
RESERVED

PART 1051
RESERVED

PART 1052
SOLICITATION PROVISIONS AND CONTRACT CLAUSES
Subpart 1052.1--Instructions for Using Provisions and Solicitations

1052.101--Using Part 52.

Procurement offices that use solicitation provisions or contract clauses on a repetitive basis that are not in the FAR, DTAR or IRSAP shall submit the provisions and/or clauses and the prescriptions for their use to the Office of Procurement Policy for advance approval. The Office of Procurement Policy is responsible for obtaining advance approval from MMK.

Subpart 1052.2--Texts of Provisions and Clauses

1052.203---9000—Contractor Publicity

As prescribed in 1003.570(s-91), include a clause substantially the same as the one below in all solicitations and contracts.

NEWS RELEASES AND ADVERTISEMENTS (JUN 2005)

The Contractor, or anyone acting on behalf of the Contractor, shall not refer to the equipment or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such equipment or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the Government shall consider institution of all remedies available under the provisions of 31 U.S.C. 333 and this contract. Further, a violation of this provision may be considered during the evaluation of past performance in future competitively negotiated acquisitions.

[End of Clause]

1052.204--9000--Screening Requirements.

As prescribed in 1004.470.1-91, include a clause substantially the same as the one below to

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require information technology (IT) contractors to cooperate with the personnel screening requirements of IRM 2.1.10 and implementing IRS policies and procedures:

SECURITY SCREENING REQUIREMENTS FOR ACCESS TO SENSITIVE BUT UNCLASSIFIED SYSTEMS OR INFORMATION (MAR 1998)

- (a) In addition to complying with any functional and technical security requirements set forth in the schedule and elsewhere in this contract, the Contractor shall request that the Government initiate personnel screening checks and provide signed user nondisclosure agreements, as required by this clause, for each contractor employee requiring staff-like access, i.e., unescorted or unsupervised physical access or electronic access, to the following limited or controlled areas, systems, programs and data: *[List areas, systems, programs and data.]*
- (b) The Contractor shall submit a properly completed set of investigative request processing forms for each such employee in compliance with instructions to be furnished by the Contracting Officer or his/her designated representative.
- (c) Depending upon the type of investigation necessary, it may take up to several months to complete complex personnel screening investigations. At the discretion of the Government, background screening may not be required for employees with recent or current favorable Federal Government investigations. To verify the acceptability of a non-IRS, favorable investigation, the Contractor shall submit the forms or information needed, according to instructions furnished by the Contracting Officer.
- (d) When contractor employee access is necessary prior to completion of personnel screening, each contractor employee requiring access may be considered for escort access. The Contractor shall promptly submit all requests for approval for escort access to the Contracting Officer or his/her designated representative so as not to endanger timely contract performance.
- (e) The Contractor shall ensure that each contractor employee requiring access executes any nondisclosure agreements required by the Government prior to gaining staff-like access. The Contractor shall provide signed copies of the agreements to the Site Security Officer (SSO) for inclusion in the employee's security file. The name and location of the SSO shall be provided by the Government after contract award. Unauthorized access is a violation of law and may be punishable under the provisions of Title 5 U.S.C. 552a, Executive Order 12356; Title 5 U.S.C. 7211 governing disclosures to Congress; Title 10 U.S.C. 1034, as amended by the Military Whistleblower Protection Act governing disclosure to Congress by members of the military; Title 5 U.S.C. 2302(b)(8) as amended by the Whistleblower Protection Act governing disclosures of illegality, waste, fraud, abuse or public health or safety threats; the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) governing disclosures that could expose confidential Government agents; and the statutes which protect against disclosure that may compromise the national security, including Sections 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. Section 783(b)) and other applicable statutes.
- (f) The Contractor shall notify the Contracting Officer's Technical Representative (COTR) or the Site Security Officer no later than the end of the day of the termination for cause of an authorized employee's access. The Contractor shall notify the COTR no later than ten days after an authorized employee no longer

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requires access for any other type of termination. Verbal notifications shall be confirmed in writing within thirty days.

[End of clause]

1052.204-9001--Identification/Badging Requirements.

As prescribed in 1004.470.1-91, include a clause substantially the same as the one below to require the contractor to cooperate with facility badging/access requirements in solicitations and contracts that require access to IRS Sensitive But Unclassified (SBU) systems or information:

IDENTIFICATION/BADGING REQUIREMENTS (MAR 1998)

During the period of this contract, access to IRS facilities for contractor representatives shall be granted as deemed necessary by the Government. All contractor employees whose duties under this contract require their presence at any Treasury, or Treasury bureau, facility shall be clearly identifiable by a distinctive badge furnished by the Government. In addition, corporate identification badges shall be worn on the outer garment at all times. It is the sole responsibility of the Contractor to provide this corporate identification. Upon the termination of the employment of any contractor personnel working on this contract, all Government furnished identification shall be returned to the issuing office. All on-site contractor personnel shall abide by security regulations applicable to that site.

[End of clause]

1052.209-9000--Organizational Conflict of Interest Notification.

As prescribed in 1009.507-1-90, include a provision similar to the following sample in solicitations or requests for quotations:

ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION (APR 1999)

- (a) The Contracting Officer has determined there is a conflict or a potential for an organizational conflict of interest associated with the performance of work for this requirement. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5, Organizational Conflicts of Interest.
- (b) The nature of this conflict is *(Contracting Officers shall describe the potential conflict of interest here in sufficient detail to allow a clear understanding by offerors/contractors)*.
- (c) The offeror warrants that, to the best of his/her knowledge and belief, there are no relevant facts or circumstances which could give rise to an Organizational Conflict of Interest (OCI), as defined in FAR 9.5, or that he/she has disclosed all such relevant information. Offerors are advised that misrepresentation of the facts or failure to provide the information requested by the Contracting Officer may cause the removal of their proposals from further consideration for award.
- (d) An offeror who believes that the performance of work under the contract may cause an OCI shall provide in its proposal to the Government a plan to mitigate the OCI. The plan will be evaluated to determine whether or not the plan effectively mitigates the potential conflict of interest such that the full scope of work contemplated by this solicitation can be performed by the offeror. The Director, Procurement, or designee, will then evaluate the mitigation plan and, if the plan is satisfactory, may grant a waiver to the offeror in accordance with FAR 9.503.

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- (e) Restrictions on the performance of work for this requirement and/or work on future contract requirements are set forth in the Internal Revenue Service Acquisition Procedure (IRSAP) clause at 1052.905-9001, Organizational Conflicts of Interest. The terms of the Organizational Conflict of Interest clause included in this solicitation are ____ are not ____ subject to negotiations.
[End of provision]

1052.209-9001--Organizational Conflicts of Interest.

As prescribed in 1009.507-2-90, include a clause similar to the following sample in all contracts, purchase orders, and delivery orders awarded using simplified acquisition procedures, when an actual or potential organizational conflict of interest has been identified:

ORGANIZATIONAL CONFLICTS OF INTEREST (APR 1999)

- (a) **Purpose.** The purpose of this clause is (1) to ensure that the Contractor is not biased because of conflicting roles in financial, contractual, organizational, or other interests which relate to the work to be performed under this contract, and (2) to ensure the Contractor does not obtain any unfair competitive advantage over other parties as a result of its work under this contract.
- (b) **Scope.** The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as the "Contractor") in any activities related to this contract. The term contractor includes the prime contractor, subcontractors, mentors, joint ventures, consultants, or any others acting in a similar capacity.
- (c) **Reporting.** The Contractor shall immediately report to the Contracting Officer any conflicts or potential conflicts that arise during the performance of work under this contract, including those that may surface at the subcontract level. Once reported, the Contracting Officer may terminate the contract for convenience if such an action is in the best interest of the Government. However, should there be any misrepresentation of facts in reporting an OCI or a potential OCI, at the prime or subcontract level, or a complete failure to report such, the Contracting Officer may impose the remedies provided in subparagraph (f) of this clause.
- (d) **Restrictions.** *(The Contracting Officer shall list appropriate restrictions for the particular acquisition. Listed below are three sample restrictions.)*
- (1) The Contractor shall not be eligible to participate in Internal Revenue Service contracts, subcontracts, or proposals which stem directly from the Contractor's performance of work under this contract, for a period of ____ years after the completion of this contract.
- (2) The Contractor shall not perform any advisory or assistance services work under this contract for a period of ____ years, unless directed to do so by the Contracting Officer, if the Contractor has been or is substantially involved in the developing or marketing of its products or services or the products or services of another firm.
- (3) If, under this contract, the Contractor prepares a statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate, in any capacity, in any acquisition which is based on said statement of work or specification for a period of ____ years.

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- (e) **Subcontracts.** The Contractor shall include a clause, substantially similar to this clause, including this subparagraph, in all subcontracts (including purchase/delivery orders), teaming arrangements, and/or other agreements calling for the performance of work related to this contract unless exempted in writing by the Contracting Officer.
- (f) **Remedies.** For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict at the time of or after award, the IRS may terminate the contract for default, disqualify the Contractor from subsequent related efforts, and pursue such other administrative remedies as may be permitted by law or other terms and conditions of this contract.

[End of clause]

1052.216-9000--Task/Delivery Order Contract Ombudsman.

As prescribed in 1016.505(b)(4), include the following clause in all multiple-award task/delivery order contracts:

TASK/DELIVERY ORDER CONTRACT OMBUDSMAN (MAR 1996)

- (a) In accordance with 41 U.S.C. 253j(e), the IRS Task/Delivery Order Contract Ombudsman is the Chief, Policy and Procedures Branch, Office of Procurement Policy.
- (b) Ombudsman responsibilities:
 - (1) address contractor concerns regarding compliance with the award procedures for task/delivery orders;
 - (2) review contractor complaints on task/delivery order contracts;
 - (3) ensure all contractors are afforded a fair opportunity to be considered for each task/delivery order, consistent with 41 U.S.C. 253j(b); and
 - (4) when requested, maintain strict confidentiality of the contractor/vendor requesting assistance.
- (c) Exceptions:

The Ombudsman shall not participate in:

 - (1) the evaluation of proposals submitted on the basic contract;
 - (2) the source selection process on the basic contract; or
 - (3) the adjudication of formal contract disputes arising under the basic contract or any individual order issued under it.
- (d) Interested parties may contact the Task/Delivery Order Contract Ombudsman by calling the Office of Procurement Policy at (202) 283-1310 or in writing at:

Internal Revenue Service
Office of Procurement Policy A:P:P
6009 Oxon Hill Road
Oxon Hill, MD 20745

[End of clause]

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1052.224-9000--Disclosure of Information--Safeguards.

- (a) Pursuant to IRC 6103(n) and as prescribed in 1024.9001 [except as provided in (b) and (c) below], include the following clause in all solicitations, contracts, orders, and interagency agreements which involve disclosure of returns or return information, with the additional information as required in paragraph (4) of the clause:

DISCLOSURE OF INFORMATION-SAFEGUARDS (JAN 1998)

In performance of this contract, the Contractor agrees to comply and assume responsibility for compliance by its employees with the following requirements:

- (1) All work shall be performed under the supervision of the contractor or the contractor's responsible employees.
- (2) Any return or return information made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor shall require prior written approval of the Internal Revenue Service. Requests to make such inspections or disclosures should be addressed to the IRS Contracting Officer.
- (3) Should a person (contractor or subcontractor) or one of his/her employees make any unauthorized inspection(s) or disclosure(s) of confidential tax information, the terms of the Default clause (FAR 52.2498), incorporated herein by reference, may be invoked, and the person (contractor or subcontractor) will be considered to be in breach of this contract.
- (4) *(Include here any additional safeguards provided by the requisitioner.)*

[End of clause]

- (b) As prescribed in 1024.9001, include the following clause in all contracts, orders, and interagency agreements for film and photo impression processing of returns or return information, with the additional information as required included in paragraph (8) of the clause:

DISCLOSURE OF INFORMATION--SAFEGUARDS (JAN 1998)

In performing the services described herein, the contractor agrees to comply and assume responsibility for compliance by his/her employees with the following requirements:

- (1) The films or photo impressions and reproductions made therefrom shall be used only for the purpose of carrying out the provisions of this contract and information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract.
- (2) All the services shall be performed under the supervision of the contractor or his/her responsible employees.

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- (3) All material received for processing and all processed and reproduced material shall be kept in a locked and fireproof compartment in a secure place when not being worked upon.
- (4) All spoilage of reproductions made from the film or photo impressions supplied to the contractor shall be destroyed and a written statement under the penalties of perjury shall be submitted to the Contracting Officer that such destruction has been accomplished.
- (5) All film, photo impressions, and reproductions made therefrom shall be submitted to the Internal Revenue Service by personal delivery, express mail, first-class mail, parcel post, or bonded carrier.
- (6) Inspection by or disclosure to anyone other than an officer or employee of the contractor shall require prior written approval of the Internal Revenue Service. Requests to make such inspection or disclosure shall be addressed to the Contracting Officer.
- (7) Should the contractor or one of his/her employees make any unauthorized inspection(s) or disclosure(s) of confidential tax information, the terms of the Default clause (FAR-52.249-8), incorporated herein by reference, may be invoked, and the contractor will be considered to be in breach of this contract.
- (8) *(Include any additional safeguards that should be stipulated.)*

[End of clause]

- (c) As prescribed in 1024.9001, include the following clause in all contracts, orders, and interagency agreements for information technology (IT) services, with the additional information as required included in paragraph (10) of the clause:

DISCLOSURE OF INFORMATION--SAFEGUARDS (JAN 1998)

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his/her employees with the following requirements:

- (1) All work shall be performed under the supervision of the contractor or the contractor's responsible employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor shall require prior written approval of the Internal Revenue Service. Requests to make such inspections or disclosures should be addressed to the IRS Contracting Officer.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output shall be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract shall be completely purged from all data storage components of his/her computer facility and no output will be retained by the contractor at the time the

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IRS work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized inspection or disclosure.

- (5) Any spoilage or any intermediate hard copy printout which may result during the processing of IRS data shall be given to the IRS Contracting Officer or his/her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and shall provide the IRS Contracting Officer or his/her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) No work involving information furnished under this contract will be subcontracted without the specific approval of the IRS Contracting Officer.
- (7) All computer systems processing, storing and transmitting tax data must meet or exceed Controlled Access Protections (CAP) wherein the operating security features of the system have the following minimum requirements: (a) an approved security policy; (b) accountability; (c) assurance; and (d) documentation.
- (8) Should a person (contractor or subcontractor) or one of his/her employees make any unauthorized inspection(s) or disclosure(s) of confidential tax information, the terms of the Default clause (FAR 52.249-8), incorporated herein by reference, may be invoked, and the person (contractor or subcontractor) will be considered to be in breach of this contract.
- (9) *(Include any additional safeguards as appropriate.)*

[End of clause]

- (d) As prescribed in 1024-9001, include the following clause in solicitations and contracts, orders, and interagency agreements where it is necessary for the contractor to have access to information marked as "Official Use Only" material:

DISCLOSURE OF "OFFICIAL USE ONLY" INFORMATION SAFEGUARDS (DEC 1988)

Any Treasury Department Information made available or to which access is provided, and which is marked or should be marked "Official Use Only", shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employee of the contractor or subcontractor at any tier shall require prior written approval of the IRS. Requests to make such disclosure should be addressed to the IRS Contracting Officer.

[End of clause]

- (e) As prescribed in 1024-9001, include the following clause in contracts, orders, or agreements with other federal agencies:

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DISCLOSURE OF INFORMATION-INTERAGENCY AGREEMENTS (DEC 1988)

All material processed or reproduced pursuant to the contract shall be treated as confidential and the provisions of 26 CFR 301.6103(n)-1 shall apply.

[End of clause]

1052.224-9001-Disclosure of Information--Criminal/Civil Sanctions.

- (a) As prescribed in 1024-9001, include the following clause in all solicitations and contracts, orders, and interagency agreements which involve disclosure of returns or return information:

DISCLOSURE OF INFORMATION--CRIMINAL/CIVIL SANCTIONS (JAN 1998)

- (1) Each officer or employee of any person (contractor or subcontractor) at any tier to whom returns or return information is or may be disclosed shall be notified in writing by the person (contractor or subcontractor) that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person (contractor or subcontractor) shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure plus in the case of willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person (contractor or subcontractor) to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract and that inspection of any such returns or return information for a purpose or to an extent not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person (contractor or subcontractor) shall also notify each such officer and employee that any such unauthorized inspection of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection plus in the case of a willful inspection or an inspection which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.
- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has

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possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

[End of clause]

- (b) As prescribed in 1024.9001, include the following clause in solicitations and contracts, orders, and interagency agreements where it is necessary for the contractor to have access to information marked as "Official Use Only":

DISCLOSURE OF INFORMATION-OFFICIAL USE ONLY (DEC 1988)

Each officer or employee of the contractor or subcontractor at any tier to whom "Official Use Only" information may be made available or disclosed shall be notified in writing by the contractor that "Official Use Only" information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such "Official Use Only" information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to ten years or both.

[End of clause]

1052.224-9002 -Disclosure of Information-Inspection.

As prescribed in 1024.9001, include the following clause in all solicitations and contracts, orders, and interagency agreements which involve disclosure of returns or return information:

DISCLOSURE OF INFORMATION--INSPECTION (DEC 1988)

The Internal Revenue Service shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, the Contracting Officer may require specific measures in cases where the contractor is found to be noncompliant with contract safeguards.

[End of clause]

1052.224-9003-Disclosure of Information-Contractor Acceptance.

As prescribed in 1024.9001, include the following clause in all modifications to contracts, orders, and interagency agreements which involve disclosure of returns or return information where the Privacy Act and safeguard clauses were not incorporated in the basic contract:

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DISCLOSURE OF INFORMATION-CONTRACT ACCEPTANCE (DEC 1988)

The contractor accepts this amendment, subject to all the terms and conditions set forth, and agrees to perform as stated herein. The contractor shall sign below and return one copy to:

Internal Revenue Service
(Street Address)
(City, State, and Zip Code)
Name of Contractor:
Typed or Printed Name and Title:
Signature:
Date:

[End of clause]

52.224-9004--Indemnification of Locksmiths and Tow Truck Operators.

As prescribed in 1024.9001, include the following clause in all solicitations, contracts, blanket purchase agreements, bankcard purchases, and purchase/delivery orders for seizure related to locksmith and tow truck operator services:

INDEMNIFICATION OF LOCKSMITHS AND TOW TRUCK OPERATORS (DEC 1988)

- (1) Subject to the limitations set out herein, the Government shall reimburse and indemnify the contractor for attorneys' fees, damages, and reasonable expenses of litigation incurred in defending suits brought by third persons against the contractor, his/her officers or employees, which arise out of the direct performance of this contract and are not compensated by insurance or otherwise. Any such claim of loss or damage within deductible amounts of the contractor's insurance shall not be covered under this clause.
- (2) The maximum amount that the contractor may be reimbursed and indemnified for attorneys' fees, damages, and expenses of litigation under this clause is \$10,000. The Government shall not be liable for reimbursement or indemnification of any such fees or expenses if the claim or litigation results from willful misconduct or lack of good faith on the part of the contractor, his/her officers, or employees.
- (3) No payment shall be made by the Government under this clause unless the amount thereof shall first have been determined to be fair and reasonable by the Contracting Officer. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract.
- (4) The contractor shall give the Contracting Officer or his/her representative immediate notice of any suit or action filed, or prompt notice of any claim made against the contractor arising out of the performance of this contract, the fee, damages, and expenses of which may be reimbursable under the provisions of this clause, and the risk of which is uninsured, and shall immediately furnish the Contracting Officer with copies of all pertinent papers received. When the liability is not insured or covered by bond, the contractor shall, if required by the Government, authorize a representative of the Government to defend any such claim and to represent the contractor in or take charge of any litigation in connection therewith provided, however, that the contractor may, at his/her own expense, be associated with the representatives of the Government in defense of any such claim or litigation.

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- (5) Payments under this clause will not entail expenditures which exceed appropriations available at the time of final judgment or settlement of the fees, damages, and expenses covered hereunder, and if the appropriations are not available, nothing in this clause may be considered as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies in appropriations to allow reimbursement for attorneys' fees, damages, and costs under the terms of this clause.

[End of clause]

1052.224-9005--Contracts for Appraisal Services.

As prescribed in 1024.9200, include the following clause in all solicitations for appraisal services:

DISCLOSURE OF INFORMATION (JAN 1998)

- (1) I hereby certify that I will not disclose the identity of the taxpayer (living or deceased) or the property or items to be valued, nor the results of any appraisal unless authorized in writing by the Contracting Officer. I agree that, whether or not a contract is awarded to me, I will keep all information confidential.
- (2) If an IRS contract is awarded and it is necessary to allow inspection or to disclose confidential information to perform under the contract, I will request, in writing, authorization from the IRS Contracting Officer to make such inspection or disclosure.

[End of clause]

1052.224-9006--Nondisclosure of Information.

As prescribed in 1024.9201(a), include the following clause in all contracts and orders for appraisal services:

NONDISCLOSURE OF INFORMATION (JAN 1998)

- (1) Except as provided elsewhere in this contract, the contractor shall not disclose the identity of the taxpayer or property being appraised, nor the results of the appraisal except to the individual specified in this contract to receive the contractor's report.
- (2) Only those inspections or disclosures authorized in writing by the Contracting Officer may be made, and only when it is clearly shown by the contractor that such inspections or disclosures are essential to successfully perform under this contract.
- (3) Should a person (contractor or subcontractor) or one of his/her employees make any unauthorized inspection(s) or disclosure(s) of confidential tax information, the terms of the Default clause (FAR 52.249-8), incorporated herein by reference, may be invoked, and the person (contractor or subcontractor) will be considered to be in breach of this contract.

[End of clause]

1052.224-9007--Authorization to Make Limited Disclosure.

As prescribed in 1024.9201 (b), include the following clause in all contracts and orders where contractors may be required to disclose limited return information to courts of record or other sources of information in order to adequately accomplish the appraisal:

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AUTHORIZATION TO MAKE LIMITED DISCLOSURE (DEC 1988)

The contractor is authorized to disclose the name and address of the taxpayer and/or the legal description of the property to courts of record or other sources when such disclosures are required in order to adequately accomplish the appraisal. Additional disclosures may be made only when authorized or directed by the Contracting Officer.

[End of clause]

1052.227-9000--Documentation, Escrow, and Code Deliverables.

As prescribed in 1027.470-4, include a clause substantially the same as the following in solicitations and contracts for information technology containing software escrow requirements:

DOCUMENTATION, ESCROW, AND CODE DELIVERABLES (JUN 1994)

- (1) With the initial delivery of the system's/item's software package, the contractor shall provide to the Contracting Officer complete, accurate, and current source code material for all customer source code software. For the purposes of this clause, "source code material" means source code and source code listings, provided in computer-sensible form and on media capable of being used as input to the *[system]* for compilation; related documentation; and any commentary necessary for a software engineer to understand the source code, all indexed and organized by the contractor for ease of use. For the purposes of this clause, "customer source code software" means every item of software that is either proposed for use or delivered under this contract, or both, if the contractor has provided the software item's source code or source code listing to another customer incident to a sale of the software item.
- (2) Escrow Requirements
 - (a) To ensure adequate performance, and for the benefit of the Government, the Government insists upon adequate performance of the *[system]* and requires procedures to ensure that its current and future operations are successful and as free from operating errors as possible. The contractor shall assign a copy of the source code material to an independent contractor for all software that is either proposed for delivery or delivered under this contract, or both, unless such has already been provided directly to the Government as customer source code software. The contractor shall ensure that its subcontractors, by way of flow-down provisions or otherwise, are informed of this requirement and shall comply with these terms.
 - (b) The independent contractor shall hereafter be referred to as the "Escrowee", and the agreement under which assignment is made shall hereafter be referred to as the "Agreement". As used in this clause, the terms "escrow" and "escrowee" are used for purposes of convenient reference only and are not intended to define the rights, duties, and obligations of the parties. The Escrowee shall be an institution or entity that routinely engages in the practice of holding software source code for the benefit of third parties licensed to use the related object code or software programs. The Escrowee shall be financially and operationally independent of the contractor, including the contractor's parent company, subcontractors, subsidiaries, and affiliates.

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- (c) Within ten calendar days from the contractor's first delivery of software to the Government, or within ten calendar days from the delivery of changed or updated software to the Government, the contractor shall deliver to the Escrowee one copy of the related source code material. The contractor warrants that the source code material delivered to the Escrowee will be complete, accurate, and current.

(3) Escrow Agreement

The contractor shall provide to the Government a tripartite Agreement, signed by officials of the contractor and the Escrowee authorized to make such commitments, and with a signature block prepared for a Contracting Officer of the United States. The Agreement, all undertakings of which will be borne at the expense of the contractor, shall provide, as a minimum:

- (a) that the paramount purpose of the Agreement is to ensure the adequate performance of the *[system]* for the benefit of the United States;
- (b) that within ten calendar days from the contractor's first delivery of software to the Government, or within ten calendar days from the delivery of changed or updated software to the Government, the contractor shall assign and deliver to the Escrowee one copy of the related source code material, unless the source code material is to be made available to the Government directly;
- (c) that the contractor warrants to the Escrowee that the source code material delivered to it is complete, accurate, and current;
- (d) that the Escrowee will not use the source code and, except upon a condition of default or in audit as described below, will reveal it to no other person or entity;
- (e) that the Escrowee will destroy the source code material upon notification from the Government that the related software is no longer in use, provide a certificate of destruction to the Government, and that under no condition will the source code material be returned to the contractor;
- (f) that the contractor will provide to the Escrowee and the Government monthly reports detailing the changes made to the software provided to the Government (negative reports are required), and these reports shall be so detailed as to give the information necessary to verify that the source code material delivered to the Escrowee and the software delivered to the Government are consistent;
- (g) that the Government is authorized to audit (but not copy) four times per year, the source code material and reports, by sampling, at a location of the Escrowee to verify that the source code material is current;
- (h) that the Escrowee shall surrender to the Government source code material in its possession for software that is determined by the Contracting Officer to be operating beneath the standard of performance set forth in this Contract, and for which the contractor has been determined to be in default by the Contracting Officer and notified of a partial or total termination for default; such surrender to be made within ten calendar days of the Contracting Officer's written request, provided the request states that use

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of the source code material is necessary to return the software to an acceptable level of performance and attaches documentation sufficient to establish the other conditions set forth in this paragraph;

- (i) that the Government, as a result of audit, or after delivery upon a condition of default and notwithstanding its legal and equitable title in the copy of source code material thus delivered, will use the source code only to perfect operation of the related software and will disclose it to no other person or entity, except as is necessary to perfect operation of the related software, and then only upon conditions of nondisclosure for any other purpose to third parties;
- (j) that the Agreement is not intended to establish a right or benefit in any successor in interest to the licensor unless specifically approved by the Government;
- (k) that while conditions for surrender of the source code material from the Escrowee to the Government may be established by reference to conditions of performance under the [system] contract, the obligations of the Escrowee to the Government under the Agreement will survive any termination, cancellation, or repudiation of the [system] contract; and
- (l) that the terms of the Agreement are not intended to provide the Government with a copyright in the software or to interfere with the rights in data established under the [system] contract.

(4) Escrow Waiver

The requirement to assign and deliver source code material to an independent contractor under an "Escrow Agreement" may be waived, whether in whole or in part, at the discretion of the Contracting Officer upon the written request of the contractor. Specific items for which waiver is granted shall be expressly identified in the contract.

In granting a request for waiver, in whole or in part, the Contracting Officer may consider any fact found relevant to exercising informed discretion, including, but not limited to, any or all of the following:

- (a) the extent of the offeror's (and its subcontractor's) experience in supporting and maintaining software on projects of similar or larger scope and dollar value;
- (b) the sufficiency and quality of the offeror's past performance and that of its subcontractors; and
- (c) the market strength and influence of the offeror, its subcontractors, and any involved software suppliers.

(5) Disputes

A dispute between the contractor and the Government relating to the obligations of the parties to the Escrow Agreement shall be resolved in accordance with the Disputes clause of this contract.

[End of clause]

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1052.237-9000--Adherence to Evaluation Procedures.

As prescribed in 1037.203(s-90), include the following clause in solicitations, requests for quotations, contracts, purchase orders, or delivery orders if deemed appropriate by the Contracting Officer, for source selection evaluation services, evaluation of offerors' capabilities, or the evaluation of other contractors' or vendors' products and/or services delivered under an IRS contract, purchase order, or delivery order:

ADHERENCE TO EVALUATION PROCEDURES (JUN 1993)

A contractor/vendor providing source selection evaluation services, evaluation of offerors' capabilities, or the evaluation of other contractors'/vendors' products and/or services delivered under an Internal Revenue Service contract, purchase order, or delivery order shall be briefed by the Contracting Officer on procedures for performing evaluations. In performing the evaluations, the contractor/vendor and its employees shall abide by the same laws, regulations, policies, and procedures as Government personnel.

[End of clause]

1052.239-9000--Risk of Loss or Damage--Purchase of Equipment.

As prescribed in 1039.102, include the following clause in all solicitations and contracts when plans for the purchase of information technology or telecommunications equipment are to be considered:

RISK OF LOSS OR DAMAGE--PURCHASE OF EQUIPMENT (JANUARY 1992)

Where the Government is liable for loss or damages to equipment, the Government shall have the following options:

- (1) The Government may require the Contractor to restore the equipment to its previous condition, in which case, the Contractor shall submit a proposal for the repair. When the proposal is accepted, the Contracting Officer shall issue a modification to the contract authorizing the work to be accomplished. In no event shall the Contractor initiate the repair prior to receiving authorization from the Contracting Officer. Repair by the Contractor shall neither extend nor abbreviate any warranty rights under the contract.
- (2) The Government may have the equipment repaired in-house or by another contractor. Should the Government elect this option, the Contracting Officer shall negotiate a contract modification, acceptable to the Government and the Contractor of the initial contract, clearly stating any changes in cost or coverage of any warranty in effect at the time of damage.
- (3) In the event of loss, the appropriate Termination for Convenience clause will govern either the partial or full termination of the contract.

[End of clause]

1052.239-9001--Risk of Loss or Damage--Lease of Equipment.

As prescribed in 1039.102, include the following clause in all solicitations and contracts when plans for the lease of information technology or telecommunications equipment are to be considered:

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RISK OF LOSS OR DAMAGE--LEASE OF EQUIPMENT (JAN 1992)

Where liable for loss or damage, not covered by warranty, of equipment under a Lease Plan, the Government shall reimburse the Contractor as follows:

- (1) For items reparable at an economically reasonable cost, the Contracting Officer shall negotiate an equitable adjustment to cover the cost of labor and materials necessary to restore the equipment to its condition prior to the occurrence of the damage.
- (2) For items lost or determined to be beyond repair, the Contracting Officer shall negotiate payment based upon the price the Government would have paid had it purchased the item on the day preceding the loss or irreparable damage. The price shall be reduced by an amount equal to any agreed upon salvage value residing in equipment retained by the Contractor.

[End of clause]

1052.239-9002--Year 2000 Warranty -- Commercial Supply Products.

As prescribed in 1039.106, include the following clause in all solicitations, contracts, task/delivery/purchase orders, and interagency agreements for information technology that qualifies as a commercial item:

YEAR 2000 WARRANTY -- COMMERCIAL SUPPLY PRODUCTS (JUL 1997)

The contractor warrants that each hardware, software, and firmware product delivered under this contract and listed below shall be able to accurately process date data (including, but not limited to, calculating, comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations, when used in accordance with the product documentation provided by the contractor, provided that all listed or unlisted products (e.g. hardware, software, firmware) used in combination with such listed product properly exchange date data with it. If the contract requires that specific listed products must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the terms and limitations of the contractor's standard commercial warranty or warranties contained in this contract, provided that notwithstanding any provision to the contrary in such commercial warranty or warranties, the remedies available to the Government under this warranty shall include repair or replacement of any listed product whose non-compliance is discovered and made known to the contractor in writing within the time period consistent with this contract's Inspection clause(s). Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

[End of clause]

1052.239-9003--Year 2000 Warranty -- Non-commercial Supply Products.

As prescribed in 1039.106, include the following clause in all solicitations, contracts, task/delivery/purchase orders, and interagency agreements for information technology that does not qualify as a commercial item:

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YEAR 2000 WARRANTY -- NON-COMMERCIAL SUPPLY PRODUCTS (JUL 1997)

The contractor warrants that each non-commercial item of hardware, software, and firmware delivered under this contract and listed below shall be able to accurately process date data (including, but not limited to, calculating, comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations, when used in accordance with the item documentation provided by the contractor, provided that all listed or unlisted items (e.g. hardware, software, firmware) used in combination with such listed item properly exchange date data with it. If the contract requires that specific listed items must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those listed items as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the terms and limitations of any general warranty provision(s) of this contract, provided that notwithstanding any provision to the contrary in such warranty provision(s), or in the absence of any such warranty provision(s), the remedies available to the Government under this warranty shall include repair or replacement of any listed item whose non-compliance is discovered and made known to the contractor in writing within the time period consistent with this contract's Inspection clause(s). Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

[End of clause]

1052.239-9004 Instructions to Offerors – Software Development Prerequisite

As prescribed in 1039.9100 (b), include the following instructions in all solicitations for software development:

Instructions to Offerors – Software Development Prerequisite (JAN 2006)

In accordance with Clause 1052.239-9005, the proposal shall include the following evidence of the offeror's CMMI[®]-SW Level:

1. The current CMMI-SW Level of the organizational component that the offeror proposes to perform the work;
2. Description of how the CMMI-SW Level was determined;
3. The period of the appraisal on-site (*from mm/dd/yyyy to mm/dd/yyyy*) and the date the appraisal rating was received;
4. The Standard CMMI Appraisal Method for Process Improvement (SCAMPISM), ARC Class A final findings report;
5. Organizational chart, with accompanying descriptions, depicting the number and types of software projects occurring within the proposed organization;
6. Profiles of the projects included in the SCAMPI, ARC Class A;
7. The name, telephone number, organizational affiliation, and SEISM-authorized identification number of the SCAMPI Lead AppraiserSM; and
8. *[Additional data to be completed by the Contracting Officer.]*

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[End of provision]

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1052.239-9005 Software Development Prerequisite

As prescribed in 1039.9100 (c), include the following clause in all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs for software development:

Software Development Prerequisite (JAN 2006)

a. Definitions. As used in this clause,

1. *"Appraisal Requirements for CMMI[®]" (ARC)* means a framework that defines the requirements considered essential to appraisal methods intended for use with Capability Maturity Model Integration (CMMI) models. ARC defines a set of typical applications of appraisal methods called appraisal method classes and allocates requirements to each class. Thus, a particular appraisal method may be declared to be an ARC Class A, B, or C appraisal method.
2. *"CMM IntegrationSM" (CMMI)* means an integrated CMM model that encompasses the key elements for enterprise-wide process improvement. The CMMI model includes the disciplines of Software Engineering (SW), Systems Engineering (SE), Integrated Product & Process Development (IPPD), and Supplier Sourcing.
3. *"CMM Confirm"* means an evaluation by the IRS of evidence provided by the offeror to support its CMMI-SW maturity or capability level.
4. *"Continuous representation"* means a model structure wherein capability levels provide a recommended order for approaching process improvement within each specified process area.
5. *"Equivalent staging"* means a target staging, created using the continuous representation that is defined so that the results of using the target staging can be compared to the maturity levels of the staged representation.
6. *"On-site"* means the SEISM appraisal phase in which an appraisal team conducts extensive interviews at the organization's software development facility or the location of the organization's software development projects. Some portions of the on-site may include teleconferencing or telephone interviews of personnel at remote locations.
7. *"Post-award Current Software Capability Rating"* means the CMMI-SW maturity or capability level determined by an appraisal for which the commencement date of the appraisal on-site occurred within the 18 months immediately preceding the due date of the initial PARM submittal for a given year.
8. *"Pre-award Software Capability Rating"* means the CMMI-SW maturity or capability level determined by an appraisal for which the commencement date of the Standard CMMI Appraisal Method for Process Improvement (SCAMPISM), ARC Class A on-site

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occurred within the 12 months immediately preceding the proposal due date.

9. *"Process Appraisal Review Methodology" (PARM)* means the methodology employed by the IRS to review, monitor, and verify contractor CMMI-SW maturity or capability levels during the period of performance of the contract, task order, delivery order, interagency agreement, or BPA.
 10. *"Software Capability Rating"* means the CMMI-SW Level achieved as a result of a SCAMPI, ARC Class A, or other appraisal method conducted according to the Class A Appraisal Requirements for CMMI, ARC Class A, latest version.
 11. *"Software development"* means any activity, in whole or in part, that is part of a software life cycle.
 12. *"Software life cycle"* means the period of time that begins when a software product is conceived and ends when the software is no longer available for use. The software life cycle typically includes the following phases: concept, requirements, design, implementation, test, installation and checkout, operation and maintenance, and retirement.
 13. *"Staged representation"* means a structure wherein attaining the goals of a set of process areas establishes a maturity level; each level builds a foundation for subsequent levels.
 14. *"Standard CMMI Appraisal Method for Process Improvement" (SCAMPI), ARC Class A* means an SEI-approved appraisal method based on the full set of Class A ARC requirements, latest version. A SCAMPI, ARC Class A is conducted by an appraisal team and led by an SEI-authorized SCAMPI Lead AppraiserSM.
 15. *"SCAMPI Lead Appraiser"* means an individual authorized by SEI to lead a team in conducting a SCAMPI; authorization is substantiated by a Lead Appraiser identification number.
 16. *"Verify"* means an evaluation of evidence provided by the contractor to support its CMMI-SW maturity or capability level, which is conducted by the IRS in accordance with the Process Appraisal Review Methodology (PARM) after award of a contract, BPA, task order, delivery order, or interagency agreement.
- b. Contractors performing software development for the IRS as required under this contract shall have, and maintain at all times during performance, a CMMI-SW Level 2 or higher maturity or capability rating. Detailed information about the CMMI-SW model may be obtained from the Software Engineering Institute (SEI), Carnegie Mellon University, Pittsburgh, PA 15213-3890. The web site is www.sei.cmu.edu/cmmi/.
 - c. The CMMI-SW maturity or capability rating shall be current and shall be substantiated by a SCAMPI, ARC Class A, latest version.
 - d. As a condition of award, the IRS reserves the right to review and confirm the CMMI-SW maturity or capability levels of offerors. As a further condition of award, the IRS reserves the right to conduct a SCAMPI, ARC Class A.
 - e. After award and throughout the period of performance, the IRS reserves the right to review, monitor, and verify contractor CMMI-SW maturity or capability levels in accordance with the Process Appraisal Review Methodology (PARM). The IRS further reserves the right to conduct an independent appraisal of the contractor, including a SCAMPI, ARC Class A.

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- f. On an annual basis, the contractor shall substantiate its current software maturity or capability rating by submitting documentation in accordance with the PARM. The IRS will perform a review annually to verify the contractor's compliance with its contractual CMMI-SW requirements.
- g. The contractor shall include the terms of this clause in all subcontracts for software development under this contract.

[End of clause]

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1052.239-9006 Software Development Prerequisite – Supplement

As prescribed in 1039.9100 (d), include the following supplement to IRSAP clause 1052.239-9005 in all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs for software development, as appropriate:

Software Development Prerequisite – Supplement (JAN 2006)

Include the following supplement to clause 1052.239-9005 in all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs for software development, if the subcontractor does not have at least a CMMI-SW Level 2 rating.

It is understood that the subcontractor does not have a CMM Integration for Software Engineering (CMMI[®]-SW) Level 2 or higher rating. The IRS has approved the subcontractor's participation in the *[insert name of IRS software development project]*, using the prime contractor's CMMI-SW Level 2 or higher processes. The prime contractor is responsible for the planning, management, and performance of the software development project according to its documented processes, utilizing subcontractor resources as mutually agreed between the prime contractor and subcontractor. The subcontractor, in performing agreed task assignments for the software development project, shall comply with the prime contractor's direction.

[End of clause]

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1052.239-9007--Access, Use or Operation of IRS Information Technology (IT) Systems by Contractors

As prescribed in 1039.9201, include the following clause in all solicitations, contracts, interagency agreements, task/delivery/purchase orders, and BPAs, including simplified acquisitions, when contractor employees will access, use or operate IRS information technology systems, equipment or resources.

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ACCESS, USE OR OPERATION OF IRS INFORMATION TECHNOLOGY (IT) SYSTEMS BY CONTRACTORS (SEP 2003)

In performance of this contract, the contractor agrees to comply with the following requirements and assumes responsibility for compliance by his/her employees:

1. IRS Information Technology Security Policy and Guidance.

All current and new IRS contractor employees authorized staff-like (unescorted) access to Treasury/IRS owned or controlled facilities and information systems, or work, wherever located, on those contracts which involve the design, operation, repair or maintenance of information systems and access to sensitive but unclassified information shall comply with the IRS Information Technology Security Policy and Guidance, Internal Revenue Manual (IRM) 25.10.1. A copy of IRM 25.10.1 may be requested from the contracting officer or Contracting Officer Technical Representative (COTR). **Notice:** The IRS Policy 87-04 which authorizes limited personal use of IT systems by IRS employees does not apply to contractor employees.

2. Access Request and Authorization.

Within (10) calendar days after contract award, issuance of a task order or other award notice, or acceptance of new or substitute contractor employees by the COTR, the contractor shall provide the COTR a list of names of all applicable contractor employees and the IRS location(s) identified in the contract for which access is requested. A security screening, if determined appropriate by the IRS and in accordance with IRM 1.23.2, Contractor Investigations, and Treasury Directive Policy (TD P) 71-10, Chapter II, Section 2, will be conducted by the IRS for each contractor employee requiring access to IRS' IT systems, or as otherwise deemed appropriate by the COTR. The Government reserves the right to determine fitness of a contractor employee assigned staff-like access under a contract and whether the employee shall perform or continue performance under the contract. Security screenings of contractor employee which reveal the following may be unacceptable under this contract: conviction of a felony, a crime of violence or a serious misdemeanor, a record of arrests for continuing offenses, or failure to file or pay Federal income tax (not an inclusive list). Upon notification from the National Background Investigations Center (NBIC) of an acceptable contractor employee security screening, the COTR will complete an Online 5081, Information System User Registration/Change Request, for each prime or subcontractor employee and require an electronic signature from each employee indicating the contractor employee has read and fully understands the security requirements governing access to the Service's IT systems. IRS approval of the Online 5081 is required before a contractor employee is granted access to, use or operation of IRS IT systems. IRM 25.10.1 includes more detailed information on the Online 5081.

3. Contractor Acknowledgement.

The contractor also acknowledges and agrees that he or she understands that all contract employees must comply with all laws, IRS system security rules, IRS security policies, standards, and procedures. The contractor also acknowledges that a contract employee's unsanctioned, negligent, or willful violation of the laws, IRS system security rules, IRS security policies, standards, and procedures may result in the revocation of access to IRS information technology systems, immediate removal from IRS premises and the contract, and for violations of Federal statute or state laws, the contract employee may be arrested by Federal law enforcement agents.

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4. Unauthorized Use of IRS Resources.

Contractor employees shall not use IRS information technology equipment/resources for activities that are personal in nature or illegal. Other types of actions that are unauthorized include but are not limited to:

- (a) Creating, copying, transmitting, or retransmitting greeting cards, screen savers, video, sound (including streaming video or music) or other large file attachments; subscribing to unofficial LISTSERVs or other services that create a high-volume of email traffic, or using e-mail practices that involve ongoing message receipt and transmission (referred to as instant messaging/messenger). Using "Push" technology on the Internet, (e.g. subscribing to a service, not authorized by the IRS, that gathers information and sends it out automatically to subscribers), and continuous data streams such as streaming stock quotes are inappropriate uses.
- (b) Accessing personal e-mail accounts such as AOL or Hotmail through the IRS Internet firewall, hacker's information or tools, chat rooms (involving instant messaging) or gambling sites;
- (c) Creating, downloading, viewing, storing, copying, or transmitting sexually explicit or sexually oriented materials such as adult pornography;
- (d) Downloading, copying, and/or playing of computer video games;
- (e) Posting agency information to external news groups, bulletin boards or other public forums without authorization; and
- (f) Accessing child pornography, bondage and bestiality, obscenity or other types of images that violate criminal law.

Any unauthorized use may be reported to the Contracting Officer's Technical Representative (COTR), the Contracting Officer, and the Department of Treasury Inspector General for Tax Administration (TIGTA).

5. Replacement Personnel.

Replacement personnel must be acceptable to the COTR. The contractor shall agree to remove the person assigned within one day of official notification by the Government and provide a replacement within five days. New hires or substitutions of personnel are subject to an acceptable IRS security screening conducted by the IRS National Background Investigation Center (NBIC), prior to being authorized access to IRS facilities and information systems.

6. Monitoring Notification.

IRS management retains the right to monitor both the content and the level of access of contractor employees' use of IRS IT systems. Contractor employees do not have a right, nor should they have an expectation, of privacy while using any IRS information technology system at any time, including accessing the Internet or using e-mail. Data maintained on government office equipment may be subject to discovery and Freedom of Information Act requests. By using government information technology systems, consent to monitoring and recording is implied with or without cause, including (but not limited to) accessing the Internet or using e-mail or the telephone. Any use of government information technology systems is made with the understanding that such use is generally not secure, is not private and is not anonymous.

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7. Subcontracts.

The Contractor shall incorporate this clause in all subcontracts, subcontract task or delivery orders or other subcontract performance instrument where the subcontractor employees will require access, use or operation of IRS information technology systems.

[End of clause]

1052.242-9000--Post Award Evaluation of Contractor Performance.

As prescribed in 1042.1503, include the following clause in all contracts and task orders valued at \$100,000 or more:

POST AWARD EVALUATION OF CONTRACTOR PERFORMANCE (SEP 2000)

a. Contractor Performance Evaluations

Interim and final evaluations of contractor performance will be prepared on this contract in accordance with FAR Subpart 42.15. A final performance evaluation will be prepared at the time of completion of work. In addition to the final evaluation, interim evaluations will be prepared annually (***Insert evaluation cycle*) to coincide with the anniversary date of the contract. (***If evaluations are to be conducted more or less frequently than annually, modify this sentence as appropriate.*)

Interim and final evaluations will be provided to the Contractor as soon as practicable after completion of the evaluation. The Contractor will be permitted thirty days to review the document and to submit additional information or a rebutting statement. Any disagreement between the parties regarding an evaluation will be referred to an individual one level above the Contracting Officer, whose decision will be final.

Copies of the evaluations, Contractor responses, and review comments, if any, will be retained as part of the contract file, and may be used to support future award decisions.

b. Electronic Access to Contractor Performance Evaluations

Contractors that have Internet capability may access evaluations through a secure Web site for review and comment by completing the registration form that can be obtained via the Internet at http://oamp.od.nih.gov/OD/CPS/cps_contractor.htm.

The registration process requires the contractor to identify an individual that will serve as a primary contact and who will be authorized access to the evaluation for review and comment. In addition, the Contractor will be required to identify an alternate contact who will be responsible for notifying the cognizant contracting official in the event the primary contact is unavailable to process the evaluation within the required 30-day time frame.

[End of clause]

1052.247-9000--Liability for Loss and Theft.

As prescribed in 1047.207, include the following clause in all solicitations, contracts, blanket purchase agreements, and orders for armored vehicles, with information included as required below:

LIABILITY FOR LOSS AND THEFT (DEC 1988)

The Internal Revenue Service requires that the Government maintain full documentation of

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each depository shipment, including identification of payees and the amount and type of remittance. The contractor shall be responsible for all deposits in shipment, including cash and the administrative costs of replacing or reacquiring checks and securities lost and not recovered. The contractor's maximum liability for one shipment shall be *, which includes (1) actual cash losses up to ** and (2) an amount not to exceed *** for actual costs incurred for replacing or reacquiring checks and securities not recovered.

- * *Insert an amount equal to the sum of items described in ** and *** below.*
- ** *Insert an amount equal to the maximum reasonable amount of cash which may be included in one shipment at peak periods of use.*
- *** *Insert an amount equal to \$6 (average cost of replacing checks) times the number of checks and securities which may be included in one shipment at peak periods of use.*

[End of clause]

PART 1053 FORMS Subpart 1053.1--General

1053.103--Exceptions.

Requests for exceptions to forms contained in FAR Part 53, DTAR Part 1053, and IRS forms, shall be submitted to the Office of Procurement Policy for review and processing.

Subpart 1053.2--Description of Forms

1053.213-90--Simplified Acquisition Procedures.

- (a) Form 6888, U.S. Government Purchase Order-Invoice-Voucher shall be used in lieu of SF-44.

1053.217-90--Interagency Agreements.

- (a) Form 12270, Interagency Agreement, shall be used for all IRS funds-out interagency agreements. The form will be automatically generated in webIPS